Title 2. Trial Court Rules

Division 1. General Provisions

Chapter 1. Title and Application

Rule 2.1. Title

The rules in this title may be referred to as the Trial Court Rules.

Rule 2.1 adopted effective January 1, 2007.

Rule 2.2. Application

The Trial Court Rules apply to all cases in the superior courts unless otherwise specified by a rule or statute.

Rule 2.2 amended and renumbered effective January 1, 2007; adopted as rule 200 effective January 1, 2001; previously amended effective January 1, 2002, and January 1, 2003.

Chapter 2. Definitions and Scope of Rules

Rule 2.3. Definitions

As used in the Trial Court Rules, unless the context or subject matter otherwise requires:

(1) "Court" means the superior court;

(2) "Papers" includes all documents, except exhibits and copies of exhibits, that are offered for filing in any case, but does not include Judicial Council and local court forms, records on appeal in limited civil cases, or briefs filed in appellate divisions; and

(3) "Written," "writing," "typewritten," and "typewriting" include other methods equivalent in legibility to typewriting.

Rule 2.3 adopted effective January 1, 2007.

Rule 2.10. Scope of rules [Reserved]

Rule 2.10 adopted effective January 1, 2007.

Chapter 3. Timing

Rule 2.20. Application for an order extending time

Rule 2.20. Application for an order extending time

(a) Application—to whom made

An application for an order extending the time within which any act is required by law to be done must be heard and determined by the judge before whom the matter is pending; provided, however, that in case of the inability, death, or absence of such judge, the application may be heard and determined by another judge of the same court.

(Subd (a) amended effective January 1, 2007.)

(b) Disclosure of previous extensions

An application for an order extending time must disclose in writing the nature of the case and what extensions, if any, have previously been granted by order of court or stipulation of counsel.

(Subd (b) amended effective January 1, 2007.)

(c) Filing and service

An order extending time must be filed immediately and copies served within 24 hours after the making of the order or within such other time as may be fixed by the court.

(Subd (c) amended effective January 1, 2007.)

Rule 2.20 amended and renumbered effective January 1, 2007; adopted as rule 235 effective January 1, 1949.

Chapter 4. Sanctions

Rule 2.30. Sanctions for rules violations in civil cases

Rule 2.30. Sanctions for rules violations in civil cases

(a) Application

This sanctions rule applies to the rules in the California Rules of Court relating to general civil cases, unlawful detainer cases, probate proceedings, civil proceedings in the appellate division of the superior court, and small claims cases.

(Subd (a) amended effective January 1, 2004; adopted effective July 1, 2001.)

(b) Sanctions

In addition to any other sanctions permitted by law, the court may order a person, after written notice and an opportunity to be heard, to pay reasonable monetary sanctions to the court or an aggrieved person, or both, for failure without good cause to comply with the applicable rules. For the purposes of this rule, "person" means a party, a party's attorney, a witness, and an insurer or any other individual or entity whose consent is necessary for the disposition of the case. If a failure to comply with an applicable rule is the responsibility of counsel and not of the party, any penalty must be imposed on counsel and must not adversely affect the party's cause of action or defense thereto.

(Subd (b) amended effective January 1, 2007; adopted as untitled subdivision effective January 1, 1985; amended and relettered effective July 1, 2001; previously amended effective January 1, 1994, and January 1, 2004.)

(c) Notice and procedure

Sanctions must not be imposed under this rule except on noticed motion by the party seeking sanctions or on the court's own motion after the court has provided notice and an opportunity to be heard. A party's motion for sanctions must (1) state the applicable rule that has been violated, (2) describe the specific conduct that is alleged to have violated the rule, and (3) identify the attorney, law firm, party, witness, or other person against whom sanctions are sought. The court on its own motion may issue an order to show cause that must (1) state the applicable rule that

has been violated, (2) describe the specific conduct that appears to have violated the rule, and (3) direct the attorney, law firm, party, witness, or other person to show cause why sanctions should not be imposed against them for violation of the rule.

(Subd (c) amended effective January 1, 2007; adopted effective July 1, 2001; previously amended effective January 1, 2004.)

(d) Award of expenses

In addition to the sanctions awardable under (b), the court may order the person who has violated an applicable rule to pay to the party aggrieved by the violation that party's reasonable expenses, including reasonable attorney's fees and costs, incurred in connection with the motion for sanctions or the order to show cause.

(Subd (d) amended effective January 1, 2007; adopted effective July 1, 2001; previously amended effective January 1, 2004.)

(e) Order

An order imposing sanctions must be in writing and must recite in detail the conduct or circumstances justifying the order.

(Subd (e) amended effective January 1, 2004; adopted effective July 1, 2001.)

Rule 2.30 amended and renumbered effective January 1, 2007; adopted as rule 227 effective January 1, 1985; previously amended effective January 1, 1994, July 1, 2001, and January 1, 2004.

Division 2. Papers and Forms to Be Filed

Chapter 1. Papers

Rule 2.100. Form and format of papers presented for filing in the trial courts

(a) Preemption of local rules

The Judicial Council has preempted local rules relating to the form and format of papers to be filed in the trial courts. No trial court, or any division or branch of a trial court, may enact or enforce any local rule concerning the form or format of papers.

Subd (a) adopted effective January 1, 2007.

(b) Rules prescribe form and format

The rules in this chapter prescribe the form and format of papers to be filed in the trial courts.

(Subd (b) adopted effective January 1, 2007.)

Rule 2.100 amended and renumbered effective January 1, 2007; adopted as rule 201 effective January 1, 1949; previously amended effective April 1, 1962, May 1, 1962, July 1, 1964, January 1, 1966, July 1, 1969, July 1, 1971, January 1, 1973, July 1, 1974, January 1, 1976, January 1, 1978, May 6, 1978, January 1, 1984, April 1, 1990, July 1, 1990, January 1, 1992, July 1, 1992, January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1998, January 1, 1999, July 1, 1999, July 1, 2000, January 1, 2001, January 1, 2003, and January 1, 2006.

Rule 2.101. Use of recycled paper; certification by attorney or party

(a) Use of recycled paper

Recycled paper must be used for the following:

(1) All original papers filed with the court and all copies of papers, documents, and exhibits, whether filed with the court or served on other parties; and

(2) The original record on appeal from a limited civil case, any brief filed with the court in a matter to be heard in the appellate division, and all copies of such documents, whether filed with the court or served on other parties.

(b) Certification

Whenever recycled paper must be used under the rules in this chapter, the attorney, party, or other person filing or serving a document certifies, by the act of filing or service, that the document was produced on paper purchased as recycled.

Rule 2.101 adopted effective January 1, 2007.

Rule 2.102. One-sided paper

On papers, only one side of each page may be used.

Rule 2.102 adopted effective January 1, 2007.

Rule 2.103. Quality, color, and size of paper

All papers must be on opaque, unglazed paper, white or unbleached, of standard quality not less than 20-pound weight, 8½ by 11 inches.

Rule 2.103 adopted effective January 1, 2007.

Rule 2.104. Printing; type size

All papers must be printed or typewritten or be prepared by a photocopying or other duplication process that will produce clear and permanent copies equally as legible as printing in type not smaller than 12 points.

Rule 2.104 adopted effective January 1, 2007.

Rule 2.105. Type style

The typeface must be essentially equivalent to Courier, Times New Roman, or Arial.

Rule 2.105 adopted effective January 1, 2007.

Rule 2.106. Color of print

The color of print must be black or blue-black.

Rule 2.106 adopted effective January 1, 2007.

Rule 2.107. Margins

The left margin of each page must be at least one inch from the left edge of the paper and the right margin at least 1/2 inch from the right edge of the paper.

Rule 2.107 adopted effective January 1, 2007.

Rule 2.108. Spacing and numbering of lines

The spacing and numbering of lines on a page must be as follows:

(1) The lines on each page must be one and one-half spaced or double-spaced and numbered consecutively.

(2) Descriptions of real property may be single-spaced.

(3) Footnotes, quotations, and printed forms of corporate surety bonds and undertakings may be single-spaced and have unnumbered lines if they comply generally with the space requirements of rule 2.111.

(4) Line numbers must be placed at the left margin and separated from the text of the paper by a vertical column of space at least 1/5 inch wide or a single or double vertical line. Each line number must be aligned with a line of type, or the line numbers must be evenly spaced vertically on the page. Line numbers must be consecutively numbered, beginning with the number 1 on each page. There must be at least three line numbers for every vertical inch on the page.

Rule 2.108 adopted effective January 1, 2007.

Rule 2.109. Page numbering

Each page must be numbered consecutively at the bottom unless a rule provides otherwise for a particular type of document.

Rule 2.109 adopted effective January 1, 2007.

Rule 2.110. Footer

(a) Location

Except for exhibits, each paper filed with the court must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line.

(b) Contents

The footer must contain the title of the paper (examples: "Complaint," "XYZ Corp.'s Motion for Summary Judgment") or some clear and concise abbreviation.

(c) Type size

The title of the paper in the footer must be in at least 10-point type.

Rule 2.110 adopted effective January 1, 2007.

Rule 2.111. Format of first page

The first page of each paper must be in the following form:

(1) In the space commencing 1 inch from the top of the page with line 1, to the left of the center of the page, the name, office address or, if none, residence address or mailing address (if different), telephone number, fax number and e-mail address (if available), and State Bar membership number of the attorney for the party in whose behalf the paper is presented, or of the party if he or she is appearing in person. The inclusion of a fax number or e-mail address on any document does not constitute consent to service by fax or e-mail unless otherwise provided by law.

(2) In the first 2 inches of space between lines 1 and 7 to the right of the center of the page, a blank space for the use of the clerk.

(3) On line 8, at or below 3 1/3 inches from the top of the paper, the title of the court.

(4) Below the title of the court, in the space to the left of the center of the page, the title of the case. In the title of the case on each initial complaint or cross-complaint, the name of each party must commence on a separate line beginning at the left margin of the page. On any subsequent pleading or paper, it is sufficient to provide a short title of the case (1) stating the name of the first party on each side, with appropriate indication of other parties, and (2) stating that a cross-action or cross-actions are involved (e.g., "and Related Cross-action"), if applicable.

(5) To the right of and opposite the title, the number of the case.

(6) Below the number of the case, the nature of the paper and, on all complaints and petitions, the character of the action or proceeding. In a case having multiple parties, any answer, response, or opposition must specifically identify the

complaining, propounding, or moving party and the complaint, motion, or other matter being answered or opposed.

(7) Below the nature of the paper or the character of the action or proceeding, the name of the judge and department, if any, to which the case is assigned.

(8) Below the nature of the paper or the character of the action or proceeding, the word "Referee:" followed by the name of the referee, on any paper filed in a case pending before a referee appointed under Code of Civil Procedure section 638 or 639.

(9) On the complaint, petition, or application filed in a limited civil case, below the character of the action or proceeding, the amount demanded in the complaint, petition, or application, stated as follows: "Amount demanded exceeds $10,000" or "Amount demanded does not exceed $10,000," as required by Government Code section 72055.

(10) In the caption of every pleading and every other paper filed in a limited civil case, the words "Limited Civil Case," as required by Code of Civil Procedure section 422.30(b).

(11) If a case is reclassified by an amended complaint, cross-complaint, amended cross-complaint, or other pleading under Code of Civil Procedure section 403.020 or 403.030, the caption must indicate that the action or proceeding is reclassified by this pleading. If a case is reclassified by stipulation under Code of Civil Procedure section 403.050, the title of the stipulation must state that the action or proceeding is reclassified by this stipulation. The caption or title must state that the case is a limited civil case reclassified as an unlimited civil case, or an unlimited civil case reclassified as a limited civil case, or other words to that effect.

Rule 2.111 adopted effective January 1, 2007.

Rule 2.112. Separate causes of action, counts, and defenses

Each separately stated cause of action, count, or defense must specifically state:

(1) Its number (e.g., "first cause of action");

(2) Its nature (e.g., "for fraud");

(3) The party asserting it if more than one party is represented on the pleading (e.g., "by plaintiff Jones"); and

(4) The party or parties to whom it is directed (e.g., "against defendant Smith").

Rule 2.112 adopted effective January 1, 2007.

Rule 2.113. Binding

Each paper must consist entirely of original pages without riders and must be firmly bound together at the top.

Rule 2.113 adopted effective January 1, 2007.

Rule 2.114. Exhibits

Exhibits may be fastened to pages of the specified size and, when prepared by a machine copying process, must be equal to typewritten material in legibility and permanency of image.

Rule 2.114 adopted effective January 1, 2007.

Rule 2.115. Hole punching

Each paper presented for filing must contain two prepunched normal-sized holes, centered 2½ inches apart and 5/8 inch from the top of the paper.

Rule 2.115 adopted effective January 1, 2007.

Rule 2.116. Changes on face of paper

Any addition, deletion, or interlineation to a paper must be initialed by the clerk or judge at the time of filing.

Rule 2.116 adopted effective January 1, 2007.

Rule 2.117. Conformed copies of papers

All copies of papers served must conform to the original papers filed, including the numbering of lines, pagination, additions, deletions, and interlineations.

Rule 2.117 adopted effective January 1, 2007.

Rule 2.118. Acceptance of papers for filing

(a) Papers not in compliance

The clerk of the court must not accept for filing or file any papers that do not comply with the rules in this chapter, except the clerk must not reject a paper for filing solely on the ground that:

(1) It is handwritten or hand-printed; or

(2) The handwriting or hand printing on the paper is in a color other than black or blue-black.

(b) Absence of fax number or e-mail address

The clerk must not reject a paper for filing solely on the ground that it does not contain an attorney's or a party's fax number or e-mail address on the first page.

(c) Filing of papers for good cause

For good cause shown, the court may permit the filing of papers that do not comply with the rules in this chapter.

Rule 2.118 adopted effective January 1, 2007.

Rule 2.119. Exceptions for forms

Except as provided elsewhere in the California Rules of Court, the rules in this chapter do not apply to Judicial Council forms, local court forms, or forms for juvenile dependency proceedings produced by the California State Department of Social Services Child Welfare Systems Case Management System.

Rule 2.119 adopted effective January 1, 2007.

Advisory Committee Comment

The California Department of Social Services (CDSS) has begun to distribute a new, comprehensive, computerized case management system to county welfare agencies. This system is not able to exactly conform to Judicial Council format in all instances. However, item numbering on the forms will remain the same. The changes allow CDSS computer-generated Judicial Council forms to be used in juvenile court proceedings.

Chapter 2. General Rules on Forms

Rule 2.130. Application

The rules in this chapter apply to Judicial Council forms, local court forms, and all other official forms to be filed in the trial courts.

Rule 2.130 adopted effective January 1, 2007.

Rule 2.131. Recycled paper

All forms and copies of forms filed with the court must use recycled paper as defined in rule 1.6.

Rule 2.131 adopted effective January 1, 2007.

Rule 2.132. True copy certified

A party or attorney who files a form certifies by filing the form that it is a true copy of the form.

Rule 2.132 adopted effective January 1, 2007.

Rule 2.133. Hole punching

All forms must contain two prepunched normal-sized holes, centered 2½ inches apart and ⅝ inch from the top of the form.

Rule 2.133 adopted effective January 1, 2007.

Rule 2.134. Forms longer than one page

(a) Single side may be used

If a form is longer than one page, the form may be printed on sheets printed only on one side even if the original has two sides to a sheet.

(b) Two-sided forms must be tumbled

If a form is filed on a sheet printed on two sides, the reverse side must be rotated 180 degrees (printed head to foot).

(c) Multiple-page forms must be bound

If a form is longer than one page, it must be firmly bound at the top.

Rule 2.134 adopted effective January 1, 2007.

Rule 2.135. Filing of handwritten or hand-printed forms

The clerk must not reject for filing or refuse to file any Judicial Council or local court form solely on the ground that:

(1) It is completed in handwritten or hand-printed characters; or

(2) The handwriting or hand-printing is a color other than blue-black or black.

Rule 2.135 amended and renumbered effective January, 2007; adopted as rule 201.4 effective January 1, 2003.

Rule 2.140. Judicial Council forms

Judicial Council forms are governed by the rules in this chapter and chapter 4 of title 1.

Rule 2.140 adopted effective January 1, 2007.

Rule 2.141. Local court forms

Local court forms are governed by the rules in this chapter and rules 10.613 and 10.614.

Rule 2.141 adopted effective January 1, 2007.

Chapter 3. Other Forms

Rule 2.150. Authorization for computer-generated or typewritten forms for proof of service of summons and complaint

Rule 2.150. Authorization for computer-generated or typewritten forms for proof of service of summons and complaint

(a) Computer-generated or typewritten forms; conditions

Notwithstanding the adoption of mandatory form *Proof of Service of Summons* (form POS-010), a form for proof of service of a summons and complaint prepared entirely by word processor, typewriter, or similar process may be used for proof of service in any applicable action or proceeding if the following conditions are met:

(1) The form complies with the rules in chapter 1 of this division except as otherwise provided in this rule, but numbered lines are not required.

(2) The left, right, and bottom margins of the proof of service must be at least ½ inch. The top margin must be at least ¾ of an inch. The typeface must be Times New Roman, Courier, Arial, or an equivalent typeface not smaller than 9 points. Text must be single-spaced and a blank line must precede each main numbered item.

(3) The title and all the text of form POS-010 that is not accompanied by a check box must be copied word for word except for any instructions, which need not be copied. In addition, the optional text describing the particular method of service used must be copied word for word, except that the check boxes must not be copied. Any optional text not describing such service need not be included.

(4) The Judicial Council number of the *Proof of Service of Summons* must be typed as follows either in the left margin of the first page opposite the last line of text or at the bottom of each page: "Judicial Council form POS-010."

(5) The text of form POS-010 must be copied in the same order as it appears on the printed form using the same item numbers. A declaration of diligence may be attached to the proof of service or inserted as item 5b(5).

(6) Areas marked "For Court Use" must be copied in the same general locations and occupy approximately the same amount of space as on the printed form.

(7) The telephone number of the attorney or party must appear flush with the left margin and below the attorney's or party's address.

(8) The name of the court must be flush with the left margin. The address of the court is not required.

(9) Material that would have been typed onto the printed form must be typed with each line indented 3 inches from the left margin.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1985, January 1, 1986, January 1, 1987, July 1, 1999, January 1, 2004, and July 1, 2004.)

(b) Compliance with rule

The act of filing a computer-generated or typewritten form under this rule constitutes a certification by the party or attorney filing the form that it complies with this rule and is a true and correct copy of the form to the extent required by this rule.

(Subd (b) amended effective January 1, 2004; previously amended effective July 1, 1985, January 1, 1987, January 1, 1988, and July 1, 1999; relettered effective January 1, 1986.)

Rule 2.150 amended and renumbered effective January 1, 2007; adopted as rule 982.9; previously amended effective January 1, 1989, July 1, 1999, January 1, 2004, and July 1, 2004.

Advisory Committee Comment

This rule is intended to permit process servers and others to prepare their own shortened versions of Proof of Service of Summons (form POS-010) containing only the information that is relevant to show the method of service used.

Division 3. Filing and Service

Chapter 1. General Provisions

Rule 2.200. Service and filing of notice of change of address

A party or attorney whose address changes while an action is pending must serve on all parties and file a written notice of the change of address.

Rule 2.200 amended and renumbered effective January 1, 2007; adopted as rule 385 effective January 1, 1984.

Rule 2.210. Drop box for filing documents

(a) Use of drop box

Whenever a clerk's office filing counter is closed at any time between 8:30 a.m. and 4:00 p.m. on a court day, the court must provide a drop box for depositing

documents to be filed with the clerk. A court may provide a drop box during other times.

(b) Documents deemed filed on day of deposit

Any document deposited in a court's drop box up to and including 4:00 p.m. on a court day is deemed to have been deposited for filing on that day. A court may provide for same-day filing of a document deposited in its drop box after 4:00 p.m. on a court day. If so, the court must give notice of the deadline for same-day filing of a document deposited in its drop box.

(c) Documents deemed filed on next court day

Any document deposited in a court's drop box is deemed to have been deposited for filing on the next court day if:

(1) It is deposited on a court day after 4:00 p.m. or after the deadline for same-day filing if a court provides for a later time; or

(2) It is deposited on a judicial holiday.

(Subd (c) amended effective January 1, 2007.)

(d) Date and time documents deposited

A court must have a means of determining whether a document was deposited in the drop box by 4:00 p.m., or after the deadline for same-day filing if a court provides for a later time, on a court day.

Rule 2.210 amended and renumbered effective January 1, 2007; adopted as rule 201.6 effective January 1, 2005.

Advisory Committee Comment

The notice required by (b) may be provided by the same means a court provides notice of its clerk's office hours. The means of providing notice may include the following: information on the court's Web site, a local rule provision, a notice in a legal newspaper, a sign in the clerk's office, or a sign near the drop box.

Chapter 2. Filing and Service by Electronic Means

Rule 2.250. Definitions

As used in this chapter, unless the context otherwise requires:

(1) "Close of business" is 5 p.m. or any other time on a court day at which the court stops accepting documents for filing at its filing counter, whichever is earlier. The court must provide notice of its close-of-business time electronically. The court may give this notice in any additional manner it deems appropriate.

(2) A "document" is a pleading, a paper, a declaration, an exhibit, or another filing submitted by a party or by an agent of a party on the party's behalf. A document may be in paper or electronic form.

(3) An "electronic filer" is a party filing a document in electronic form with the court.

(4) "Electronic filing" is the electronic transmission to a court of a document in electronic form.

(5) An "electronic filing service provider" is a person or entity that receives an electronic filing from a party for retransmission to the court. In submission of filings, the electronic filing service provider does so on behalf of the electronic filer and not as an agent of the court.

(6) "Electronic service" is the electronic transmission of a document to a party's electronic notification address, either directly or through an electronic filing service provider, for the purpose of effecting service.

(7) "Regular filing hours" are the hours during which a court accepts documents for filing.

Rule 2.250 amended and renumbered effective January 1, 2007; adopted as rule 2050 effective January 1, 2003; previously amended effective January 1, 2006.

Rule 2.252. Documents that may be filed electronically

(a) In general

A court may permit electronic filing of a document in any action or proceeding unless the rules in this chapter or other legal authority expressly prohibit electronic filing.

(Subd (a) amended effective January 1, 2007.)

(b) Original documents

In a proceeding that requires the filing of an original document, an electronic filer may file a scanned copy of a document if the original document is then filed with the court within 10 calendar days.

(c) Application for waiver of court fees and costs

The court may permit electronic filing of an application for waiver of court fees and costs in any proceeding in which the court accepts electronic filings.

(Subd (c) amended effective January 1, 2007.)

(d) Orders and judgments

The court may electronically file any notice, order, minute order, judgment, or other document prepared by the court.

(e) Effect of document filed electronically

(1) A document that the court or a party files electronically under the rules in this chapter has the same legal effect as a document in paper form.

(2) Filing a document electronically does not alter any filing deadline.

(Subd (e) amended effective January 1, 2007.)

Rule 2.252 amended and renumbered effective January 1, 2007; adopted as rule 2052 effective January 1, 2003.

Rule 2.253. Court order requiring electronic filing and service

(a) Court order

The court may, on the motion of any party or on its own motion, order all parties to serve and file all documents electronically in any class action, a consolidated action, a group of actions, a coordinated action, or an action that is complex under rule 3.403, after finding that such an order would not cause undue hardship or significant prejudice to any party. The court's order may also provide that:

(1) Documents previously filed in paper form may be resubmitted in electronic form; and

(2) When the court sends confirmation of filing to all parties, receipt of the confirmation constitutes service of the filing.

(Subd (a) amended effective January 1, 2007.)

(b) Filing in paper form

When it is not feasible for a party to convert a document to electronic form by scanning, imaging, or another means, a court may allow that party to serve and file the document in paper form.

(Subd (b) amended effective January 1, 2007.)

Rule 2.253 amended and renumbered effective January 1, 2007; adopted as rule 2053 effective January 1, 2003.

Rule 2.254. Responsibilities of court

(a) Internet-accessible system

(1) Except as provided in (2), a court that orders electronic filing must permit filing over the Internet by means designed to ensure the security and integrity of an Internet transmission.

(2) The court may decide not to permit service and filing over the Internet if the court determines that doing so would facilitate the management of a particular action or proceeding and would not cause undue prejudice to any party.

(Subd (a) amended effective January 1, 2007.)

(b) Publication of electronic filing requirements

Each court that permits electronic filing must publish, in both electronic and print formats, the court's electronic filing requirements.

(Subd (b) amended effective January 1, 2007.)

(c) Problems with electronic filing

If the court is aware of a problem that impedes or precludes electronic filing during the court's regular filing hours, it must promptly take reasonable steps to provide notice of the problem.

(Subd (c) amended effective January 1, 2007.)

(d) Public access to electronically filed documents

Except as provided in rules 2.250–2.260 and 2.500–2.506, an electronically filed document is a public document at the time it is filed unless it is sealed under rule 2.551(b) or made confidential by law.

(Subd (d) amended effective January 1, 2007.)

Rule 2.254 amended and renumbered effective January 1, 2007; adopted as rule 2054 effective January 1, 2003.

Rule 2.255. Contracts with electronic filing service providers

(a) Right to contract

(1) A court may contract with one or more electronic filing service providers to furnish and maintain an electronic filing system for the court.

(2) If the court contracts with an electronic filing service provider, it may require electronic filers to transmit the documents to the provider.

(3) If there is a single provider or an in-house system, it must accept filing from other electronic filing service providers to the extent it is compatible with them.

(Subd (a) amended effective January 1, 2007.)

(b) Provisions of contract

The court's contract with an electronic filing service provider may allow the provider to charge electronic filers a reasonable fee in addition to the court's filing fee. The contract may also allow the electronic filing service provider to make other reasonable requirements for use of the electronic filing system.

(c) Transmission of filing to court

An electronic filing service provider must promptly transmit any electronic filing, with the applicable filing fee, to the court.

(d) Confirmation of receipt and filing of document

(1) An electronic filing service provider must promptly send to an electronic filer confirmation of the receipt of any document that the filer has transmitted to the provider for filing with the court.

(2) The electronic filing service provider must send its confirmation to the filer's electronic notification address and must indicate the date and time of receipt, in accordance with rule 2.259(a).

(3) After reviewing the documents, the court must promptly transmit to the electronic filing service provider and the electronic filer the court's confirmation of filing or notice of rejection of filing, in accordance with rule 2.259.

(Subd (d) amended effective January 1, 2007.)

(e) Ownership of information

All contracts between the court and electronic filing service providers must acknowledge that the court is the owner of the contents of the filing system and has the exclusive right to control the system's use.

(Subd (e) amended effective January 1, 2007.)

Rule 2.255 amended and renumbered effective January 1, 2007; adopted as rule 2055 effective January 1, 2003.

Advisory Committee Comment

The Court Technology Advisory Committee recommends that electronic filing service providers comply with the technical standards specified on the California Courts Web site at *www.courtinfo.ca.gov/programs/efiling/*. The committee anticipates that these rules may be amended to require compliance with the California Electronic Filing Technical Standards once the standards are sufficiently developed.

Rule 2.256. Responsibilities of electronic filer

(a) Conditions of filing

Each electronic filer agrees to, and must:

(1) Comply with any court requirements designed to ensure the integrity of electronic filing and to protect sensitive personal information;

(2) Furnish information the court requires for case processing;

(3) Take all reasonable steps to ensure that the filing does not contain computer code, including viruses, that might be harmful to the court's electronic filing system and to other users of that system;

(4) Furnish one or more electronic notification addresses, in the manner specified by the court, at which the electronic filer agrees to accept service; and

(5) Immediately provide the court and all parties with any change to the electronic filer's electronic notification address.

(Subd (a) amended effective January 1, 2007.)

(b) Format of documents to be filed electronically

A document that is filed electronically with the court must be in a format specified by the court unless it cannot be created in that format. The format adopted by a court must meet the following requirements:

(1) The software for creating and reading documents must be in the public domain or generally available at a reasonable cost.

(2) By January 1, 2010, any format adopted by the court must allow for full text searching. Documents not available in a format that permits full text searching must be scanned or imaged as required by the court, unless the court orders that scanning or imaging would be unduly burdensome. By January 1, 2010, such scanning or imaging must allow for full text searching to the extent feasible.

(3) The printing of documents must not result in the loss of document text, format, or appearance.

(Subd (b) amended effective January 1, 2006.)

Rule 2.256 amended and renumbered effective January 1, 2007; adopted as rule 2056 effective January 1, 2003; previously amended effective January 1, 2006.

Rule 2.257. Requirements for signatures on documents

(a) Documents signed under penalty of perjury

When a document to be filed electronically provides for a signature under penalty of perjury, the following applies:

(1) The document is deemed signed by the declarant if, before filing, the declarant has signed a printed form of the document.

(2) By electronically filing the document, the electronic filer certifies that (1) has been complied with and that the original, signed document is available for inspection and copying at the request of the court or any other party.

(3) At any time after the document is filed, any other party may serve a demand for production of the original signed document. The demand must be served on all other parties but need not be filed with the court.

(4) Within five days of service of the demand under (3), the party on whom the demand is made must make the original signed document available for inspection and copying by all other parties.

(5) At any time after the document is filed, the court may order the filing party to produce the original signed document in court for inspection and copying by the court. The order must specify the date, time, and place for the production and must be served on all parties.

(Subd (a) amended effective January 1, 2007.)

(b) Documents not signed under penalty of perjury

If a document does not require a signature under penalty of perjury, the document is deemed signed by the party if the document is filed electronically.

(Subd (b) amended effective January 1, 2007.)

(c) Documents requiring signatures of opposing parties

When a document to be filed electronically, such as a stipulation, requires the signatures of opposing parties, the following procedure applies:

(1) The party filing the document must obtain the signatures of all parties on a printed form of the document.

(2) The party filing the document must maintain the original, signed document and must make it available for inspection and copying as provided in (a)(2). The court and any other party may demand production of the original signed document in the manner provided in (a)(3)–(5).

(3) By electronically filing the document, the electronic filer indicates that all parties have signed the document and that the filer has the signed original in his or her possession.

(Subd (c) amended effective January 1, 2007.)

(d) Digital signature

A party is not required to use a digital signature on an electronically filed document.

Rule 2.257 amended and renumbered effective January 1, 2007; adopted as rule 2057 effective January 1, 2003.

Rule 2.258. Payment of filing fees

(a) Use of credit cards and other methods

A court may permit the use of credit cards, debit cards, electronic fund transfers, or debit accounts for the payment of filing fees associated with electronic filing, as provided in Government Code section 6159, rule 10.820, and other applicable law. A court may also authorize other methods of payment.

(Subd (a) amended effective January 1, 2007.)

(b) Fee waivers

Eligible persons may seek a waiver of court fees and costs, as provided in Government Code section 68511.3, rule 2.252(c), and division 2 of title 3 of these rules.

(Subd (b) amended effective January 1, 2007.)

Rule 2.258 amended and renumbered effective January 1, 2007; adopted as rule 2058 effective January 1, 2003.

Rule 2.259. Actions by court on receipt of electronic filing

(a) Confirmation of receipt and filing of document

(1) *Confirmation of receipt*

When a court receives an electronically submitted document directly from the filer and not through an electronic filing service provider, the court must promptly send the electronic filer confirmation of the court's receipt of the document, indicating the date and time of receipt.

(2) *Confirmation of filing*

If the document received by the court under (1) complies with filing requirements and all required filing fees have been paid, the court must promptly send the electronic filer confirmation that the document has been filed. The filing confirmation must indicate the date and time of filing and is proof that the document was filed on the date and at the time specified. The filing confirmation must also specify:

(A) Any transaction number associated with the filing;

(B) The titles of the documents as filed by the court; and

(C) The fees assessed for the filing.

(3) *Transmission of confirmations*

The court must send receipt and filing confirmation to the electronic filer at the electronic notification address the filer furnished to the court under rule 2.256(a)(4). The court must maintain a record of all receipt and filing confirmations.

(4) *Filer responsible for verification*

In the absence of the court's confirmation of receipt and filing, there is no presumption that the court received and filed the document. The electronic filer is responsible for verifying that the court received and filed any document that the electronic filer submitted to the court electronically.

(Subd (a) amended effective January 1, 2007.)

(b) Notice of rejection of document for filing

If the clerk does not file a document because it does not comply with applicable filing requirements or because the required filing fee has not been paid, the court must promptly send notice of the rejection of the document for filing to the electronic filer. The notice must state the reasons that the document was rejected for filing.

(Subd (b) amended effective January 1, 2007.)

(c) Document filed after close of business

A document that is filed electronically with the court after the close of business is deemed to have been filed on the next court day.

(Subd (c) amended effective January 1, 2007.)

(d) Delayed delivery

If a technical problem with a court's electronic filing system prevents the court from accepting an electronic filing during its regular filing hours on a particular court day, and the electronic filer demonstrates that he or she attempted to electronically file the document on that day, the court must deem the document as filed on that day. This subdivision does not apply to the filing of a complaint or any other initial pleading in an action or proceeding.

(Subd (d) amended effective January 1, 2007.)

(e) Endorsement

(1) The court's endorsement of a document electronically filed must contain the following: "Electronically filed by Superior Court of California, County of _____, on _____ (date)," followed by the name of the court clerk.

(2) The endorsement required under (1) has the same force and effect as a manually affixed endorsement stamp with the signature and initials of the court clerk.

(3) A complaint or another initial pleading in an action or proceeding that is filed and endorsed electronically may be printed and served on the defendant or respondent in the same manner as if it had been filed in paper form.

(Subd (e) amended effective January 1, 2007.)

(f) Issuance of electronic summons

(1) On the electronic filing of a complaint, a petition, or another document that must be served with a summons, the court may transmit a summons electronically to the electronic filer.

(2) The electronically transmitted summons must contain an image of the court's seal and the assigned case number.

(3) Personal service of the printed form of a summons transmitted electronically to the electronic filer has the same legal effect as personal service of a copy of an original summons.

(Subd (f) amended effective January 1, 2007.)

Rule 2.259 amended and renumbered effective January 1, 2007; adopted as rule 2059 effective January 1, 2003.

Rule 2.260. Electronic service

(a) Consent to electronic service

(1) When a notice may be served by mail, express mail, overnight delivery, or fax transmission, electronic service of the notice is permitted.

(2) A party indicates that he or she agrees to accept electronic service by:

(A) Filing and serving a notice that the party accepts electronic service. The notice must include the electronic notification address at which the party agrees to accept service; or

(B) Electronically filing any document with the court. The act of electronic filing is evidence that the party agrees to accept service at the electronic notification address the party has furnished to the court under rule 2.256(a)(4).

(Subd (a) amended effective January 1, 2007.)

(b) When service is complete

(1) Electronic service is complete at the time of transmission.

(2) If a document is served electronically, any period of notice, or any right or duty to act or respond within a specified period or on a date certain after service of the document, is extended by two court days.

(3) The extension under (2) does not extend the time for filing:

(A) A notice of intent to move for a new trial;

(B) A notice of intent to move to vacate the judgment under Code of Civil Procedure section 663a; or

(C) A notice of appeal.

(4) Service that occurs after the close of business is deemed to have occurred on the next court day.

(Subd (b) amended effective January 1, 2007.)

(c) Proof of service

(1) Proof of electronic service may be by any of the methods provided in Code of Civil Procedure section 1013(a), except that the proof of service must state:

(A) The electronic notification address of the person making the service, in place of that person's residence or business address;

(B) The date and time of the electronic service, instead of the date and place of deposit in the mail;

(C) The name and electronic notification address of the person served, in place of that person's name and address as shown on the envelope; and

(D) That the document was served electronically and the transmission was reported as complete and without error, in place of the statement that the envelope was sealed and deposited in the mail with postage fully prepaid.

(2) Proof of electronic service may be in electronic form and may be filed electronically with the court.

(3) Under rule 3.1300(c), proof of service of the moving papers must be filed at least five calendar days before the hearing.

(4) The party filing the proof of service must maintain the printed form of the document bearing the declarant's original signature and must make the document available for inspection and copying on the request of the court or any party to the action or proceeding in which it is filed, in the manner provided in rule 2.257(a).

(Subd (c) amended effective January 1, 2007.)

(d) Change of electronic notification address

(1) A party whose electronic notification address changes while the action or proceeding is pending must promptly file a notice of change of address with the court electronically and must serve this notice on all other parties.

(2) An electronic notification address is presumed valid for a party if the party files electronic documents with the court from that address and has not filed and served notice that the address is no longer valid.

(Subd (d) amended effective January 1, 2007.)

(e) Electronic service by court

The court may electronically serve any notice, order, judgment, or other document issued by the court in the same manner that parties may serve documents by electronic service.

(Subd (e) amended effective January 1, 2007.)

Rule 2.260 amended and renumbered effective January 1, 2007; adopted as rule 2060 effective January 1, 2003.

Rule 2.261. Authorization for courts to continue modifying forms for the purpose of electronic filing and forms generation

Courts that participated in pilot projects for electronic filing and forms generation under former rule 981.5 are authorized to continue to modify Judicial Council forms for the purpose of accepting electronic filing or providing electronic generation of court documents provided that the modification of the forms is consistent with the rules in this chapter.

Rule 2.261 amended and renumbered effective January 1, 2007; adopted as rule 2061 effective July 1, 2004.

Chapter 3. Filing and Service by Fax

Rule 2.300. Application

(a) Proceedings to which rules apply

The rules in this chapter apply to civil, probate, and family law proceedings in all trial courts. Rule 5.522 applies to fax filing in juvenile law proceedings.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective March 1, 1992.)

(b) Documents that may not be issued by fax

Notwithstanding any provision in the rules in this chapter, no will, codicil, bond, or undertaking may be filed by fax nor may a court issue by fax any document intended to carry the original seal of the court.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective March 1, 1992.)

Rule 2.300 amended and renumbered effective January 1, 2007; adopted as rule 2002 effective March 1, 1992; previously amended effective January 1, 1999.

Rule 2.301. Definitions

As used in this chapter, unless the context otherwise requires:

(1) "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

(2) "Fax transmission" means the transmission of a document by a system that encodes a document into electrical signals, transmits these electrical signals over a telephone line, and reconstructs the signals to print a duplicate of the original document at the receiving end.

(3) "Fax machine" means a machine that can send a facsimile transmission using the international standard for scanning, coding, and transmission established for Group 3 machines by the Consultative Committee of International Telegraphy and Telephone of the International Telecommunications Union (CCITT),1 in regular resolution. Any fax machine used to send documents to a court under rule 2.305 must send at an initial transmission speed of no less than 4800 baud and be able to generate a transmission record. "Fax machine" includes a fax modem that is connected to a personal computer.

(4) "Fax filing" means the fax transmission of a document to a court that accepts such documents.

(5) "Service by fax" means the transmission of a document to a party or the attorney for a party under the rules in this chapter.

(6) "Transmission record" means the document printed by the sending fax machine, stating the telephone number of the receiving fax machine, the number of pages sent, the transmission time and date, and an indication of any errors in transmission.

(7) "Fax filing agency" means an entity that receives documents by fax for processing and filing with the court.

Rule 2.301 amended and renumbered effective January 1, 2007; adopted as rule 2003 effective March 1, 1992.

Rule 2.302. Compliance with the rules on the form and format of papers

The document used for transmitting a fax must comply with the rules in division 2, chapter 1 of this title regarding form or format of papers. Any exhibit that exceeds 8-1/2 by 11 inches must be reduced in size to not more than 8-1/2 by 11 inches before it is transmitted. The court may require the filing party to file the original of an exhibit that the party has filed by fax.

Rule 2.302 amended and renumbered effective January 1, 2007; adopted as rule 2004 effective March 1, 1992.

Rule 2.303. Filing through fax filing agency

(a) Transmission of document for filing

[1] Recommendations T.4 and T.30, Volume VII—Facsimile VII.3, CCITT Red Book, Malaga-Torremolinos, 1984, U.N. Bookstore Code ITU 6731.

A party may transmit a document by fax to a fax filing agency for filing with any trial court. The agency acts as the agent of the filing party and not as an agent of the court.

(b) Duties of fax filing agency

The fax filing agency that receives a document for filing must:

(1) Prepare the document so that it complies with the rules in division 2, chapter 1 of this title and any other requirements for filing with the court;

(2) Physically transport the document to the court; and

(3) File the document with the court, paying any applicable filing fee.

(Subd (b) amended effective January 1, 2007.)

(c) Requirement of advance arrangements

A fax filing agency is not required to accept papers for filing from any party unless appropriate arrangements for payment of filing fees and service charges have been made in advance of any transmission to the agency. If an agency receives a document from a party with whom it does not have prior arrangements, the agency may discard the document without notice to the sender.

(Subd (c) amended effective January 1, 2007.)

(d) Confidentiality

A fax filing agency must keep all documents transmitted to it confidential except as provided in the rules in this chapter.

(Subd (d) amended effective January 1, 2007.)

(e) Certification

A fax filing agency, by filing a document with the court, certifies that it has complied with the rules in this chapter and that the document filed is the full and unaltered fax-produced document received by it. The agency is not required to give any additional certification.

(Subd (e) amended effective January 1, 2007.)

(f) Notation of fax filing

Each document filed by a fax filing agency must contain the phrase "By fax" immediately below the title of the document.

(Subd (f) amended effective January 1, 2007.)

Rule 2.303 amended and renumbered effective January 1, 2007; adopted as rule 2005 effective March 1, 1992.

Rule 2.304. Direct filing

(a) Courts in which applicable

A party may file by fax directly to any court that, by local rule, has provided for direct fax filing. The local rule must state that direct fax filing may be made under the rules in this chapter and must provide the fax telephone number for filings and specific telephone numbers for any departments to which fax filings should be made directly. The court must also accept agency filings under rule 2.303.

(Subd (a) amended effective January 1, 2007.)

(b) Mandatory cover sheet

A party filing a document directly by fax must use the *Facsimile Transmission Cover Sheet (Fax Filing)* (form MC-005). The cover sheet must be the first page transmitted, to be followed by any special handling instructions needed to ensure that the document will comply with local rules. Neither the cover sheet nor the special handling instructions are to be filed in the case. The court must ensure that any credit card information on the cover sheet is not publicly disclosed. The court is not required to keep a copy of the cover sheet.

(Subd (b) amended effective January 1, 2007.)

(c) Notation of fax filing

Each document transmitted for direct filing with the court must contain the phrase "By fax" immediately below the title of the document.

(Subd (c) amended effective January 1, 2007.)

(d) Presumption of filing

A party filing by fax must cause the transmitting fax machine to print a transmission record of each filing by fax. If the document transmitted to the court by fax machine is not filed with the court because of (1) an error in the transmission of the document to the court that was unknown to the sending party or (2) a failure to process the document after it has been received by the court, the sending party may move the court for an order filing the document nunc pro tunc. The motion must be accompanied by the transmission record and a proof of transmission in the following form:

"At the time of transmission I was at least 18 years of age and not a party to this legal proceeding. On (date) _____ at (time) _____, I transmitted to the (court name) _____ the following documents (name) _____ by fax machine, under California Rules of Court, rule 2.304. The court's fax telephone number that I used was (fax telephone number) _____. The fax machine I used complied with rule 2.301 and no error was reported by the machine. Under rule 2.304, I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

"I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(Subd (d) amended effective January 1, 2007.)

(e) Payment of fees by credit card

(1) *Credit or debit card payments*

The court may permit credit cards, debit cards, electronic funds transfers, or debit accounts to be used to pay filing fees for fax filings made directly with the court, as provided in Government Code section 6159, rule 10.820, and other applicable laws. The cover sheet for these filings must include (1) the credit or debit card account number to which the fees may be charged, (2) the signature of the cardholder authorizing the charging of the fees, and (3) the expiration date of the credit or debit card.

(2) *Rejection of charge*

If the charge is rejected by the credit or debit card issuing company, the court must proceed in the same manner as under Code of Civil Procedure section 411.20 relating to returned checks. This provision does not prevent a court from seeking authorization for the charge before the filing and rejecting the filing if the charge is not approved by the issuing company.

(3) *Amount of charge*

The amount charged is the applicable filing fee plus any fee or discount imposed by the card issuer or draft purchaser.

(Subd (e) amended effective January 1, 2007.)

(f) Filing fee accounts

If a court so provides in its local rule establishing a direct fax filing program, an account may be used to pay for documents filed by fax by an attorney or party who has established an account with the court before filing a paper by fax. The court may require the deposit in advance of an amount not to exceed $1,000, or the court may agree to bill the attorney or party not more often than monthly.

(Subd (f) amended effective January 1, 2007.)

Rule 2.304 amended and renumbered effective January 1, 2007; adopted as rule 2006 effective March 1, 1992; previously amended effective July 1, 2006.

Rule 2.305. Requirements for signatures on documents

(a) Possession of original document

A party who files or serves a signed document by fax under the rules in this chapter represents that the original signed document is in the party's possession or control.

(Subd (a) amended effective January 1, 2007.)

(b) Demand for original; waiver

At any time after filing or service of a signed fax document, any other party may serve a demand for production of the original physically signed document. The demand must be served on all other parties but not filed with the court.

(Subd (b) amended effective January 1, 2007.)

(c) Examination of original

If a demand for production of the original signed document is made, the parties must arrange a meeting at which the original signed document can be examined.

(Subd (c) amended effective January 1, 2007.)

(d) Fax signature as original

Notwithstanding any provision of law to the contrary, including Evidence Code sections 255 and 260, a signature produced by fax transmission is deemed to be an original.

(Subd (d) amended effective January 1, 2007.)

Rule 2.305 amended and renumbered effective January 1, 2007; adopted as rule 2007 effective March 1, 1992.

Rule 2.306. Service of papers by fax transmission

(a) Service by fax

(1) *Agreement of parties required*

Service by fax transmission is permitted only if the parties agree and a written confirmation of that agreement is made.

(2) *Service on last-given fax number*

Any notice or other document to be served must be transmitted to a fax machine maintained by the person on whom it is served at the fax machine telephone number as last given by that person on any document that the party has filed in the case and served on the party making service.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of subd (b) effective March 1, 1992.)

(b) Transmission of papers by court

A court may serve any notice by fax in the same manner that parties may serve papers by fax.

(Subd (b) adopted effective January 1, 2007.)

(c) Notice period extended

Except as provided in (d), any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the service of a document served by fax transmission is extended by two court days.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of subd (b) effective March 1, 1992.)

(d) Extension inapplicable to certain motions

The extension provided in (c) does not apply to extend the time for the filing of:

(1) A notice of intent to move for new trial;

(2) A notice of intent to move to vacate a judgment under Code of Civil Procedure section 663; or

(3) A notice of appeal.

(Subd (d) amended and lettered effective January 1, 2007; adopted as part of subd (b) effective March 1, 1992.)

(e) Availability of fax

A party or attorney agreeing to accept service by fax must make his or her fax machine generally available for receipt of served documents between the hours of 9 a.m. and 5 p.m. on days that are not court holidays under Code of Civil Procedure section 136. This provision does not prevent the party or attorney from sending other documents by means of the fax machine or providing for normal repair and maintenance of the fax machine during these hours.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (c) effective March 1, 1992.)

(f) When service complete

Service by fax is complete on transmission of the entire document to the receiving party's fax machine. Service that is completed after 5 p.m. is deemed to have occurred on the next court day. Time is extended as provided by this rule.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (d) effective March 1, 1992; previously amended effective July 1, 1997.)

(g) Proof of service by fax

Proof of service by fax may be made by any of the methods provided in Code of Civil Procedure section 1013(a), except that:

(1) The time, date, and sending fax machine telephone number must be used instead of the date and place of deposit in the mail;

(2) The name and fax machine telephone number of the person served must be used instead of the name and address of the person served as shown on the envelope;

(3) A statement that the document was sent by fax transmission and that the transmission was reported as complete and without error must be used instead of the statement that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid;

(4) A copy of the transmission report must be attached to the proof of service and the proof of service must declare that the transmission report was properly issued by the sending fax machine; and

(5) Service of papers by fax is ineffective if the transmission does not fully conform to these provisions.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (e) effective March 1, 1992; previously amended effective July 1, 1992, and May 1, 1998.)

Rule 2.306 amended and renumbered effective January 1, 2007; adopted as rule 2008 effective March 1, 1992; previously amended effective July 1, 1997, and May 1, 1998.

Division 4. Court Records

Chapter 1. General Provisions

Rule 2.400. Court records

Rule 2.400. Court records

(a) Removal of papers

Only the clerk may remove and replace papers in the court's files. Unless otherwise ordered by the court, filed papers may only be inspected by the public in the office of the clerk and released to a court officer or attaché for use in a court facility. No original papers filed with the clerk may be used in any location other than a court facility, unless so ordered by the presiding judge.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1993.)

(b) Original papers filed with the clerk; duplicate papers for temporary judge or referee

In a case pending before a temporary judge or referee, whether privately compensated or not, a party must tender and the clerk must accept for filing all original papers accompanied by the required fee within the time limits specified by law. The filing party must provide a filed-stamped copy to the temporary judge or referee of each paper relevant to the issues before the temporary judge or referee. When the paper may be filed without payment of a fee, instead of a filed-stamped copy, the filing party may use a true copy of the paper accompanied by a declaration about the date of its filing.

(Subd (b) amended effective January 1, 2007; adopted effective July 1, 1993.)

(c) Return of exhibits

(1) The clerk must not release any exhibit except on order of the court. The clerk must require a signed receipt for a released exhibit.

(2) If proceedings are conducted by a temporary judge or a referee outside of court facilities, the temporary judge or referee must keep all exhibits and deliver them, properly marked, to the clerk at the conclusion of the proceedings, unless the parties file a written stipulation that the exhibits may be disposed of otherwise. On request of the temporary judge or referee, the clerk must deliver exhibits to the possession of the temporary judge or referee, who must not release them to any person other than the clerk. Exhibits in the possession of the temporary judge or referee must be made available during business hours for inspection by any person within a reasonable time after request.

(Subd (c) amended effective January 1, 2007; adopted as subd (b) effective January 1, 1949; previously amended and relettered effective July 1, 1993.)

Rule 2.400 amended and renumbered effective January 1, 2007; adopted as rule 243 effective January 1, 1949; previously amended effective July 1, 1993.

Chapter 2. Public Access to Electronic Trial Court Records

Rule 2.500. Statement of purpose

(a) Intent

The rules in this chapter are intended to provide the public with reasonable access to trial court records that are maintained in electronic form, while protecting privacy interests.

(b) Benefits of electronic access

Improved technologies provide courts with many alternatives to the historical paper-based record receipt and retention process, including the creation and use of court records maintained in electronic form. Providing public access to trial court records that are maintained in electronic form may save the courts and the public time, money, and effort and encourage courts to be more efficient in their operations. Improved access to trial court records may also foster in the public a more comprehensive understanding of the trial court system.

(c) No creation of rights

The rules in this chapter are not intended to give the public a right of access to any record that they are not otherwise entitled to access. The rules do not create any right of access to records that are sealed by court order or confidential as a matter of law.

(Subd (c) amended effective January 1, 2007.)

Rule 2.500 amended and renumbered effective January 1, 2007; adopted as rule 2070 effective July 1, 2002.

Advisory Committee Comment

The rules in this chapter acknowledge the benefits that electronic court records provide but attempt to limit the potential for unjustified intrusions into the privacy of individuals involved in litigation that can occur as a result of remote access to electronic court records. The proposed rules take into account the limited resources currently available in the trial courts. It is contemplated that the rules may be modified to provide greater electronic access as the courts' technical capabilities improve and with the knowledge gained from the experience of the courts in providing electronic access under these rules.

Rule 2.501. Application and scope

(a) Application

The rules in this chapter apply only to trial court records.

(Subd (a) amended and relettered effective January 1, 2007; adopted as subd (b) effective July 1, 2002.)

(b) Access by parties and attorneys

The rules in this chapter apply only to access to court records by the public. They do not limit access to court records by a party to an action or proceeding, by the attorney of a party, or by other persons or entities that are entitled to access by statute or rule.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (c) effective July 1, 2002.)

Rule 2.501 amended and renumbered effective January 1, 2007; adopted as rule 2017 effective July 1, 2002.

Rule 2.502. Definitions

As used in this chapter, the following definitions apply:

(1) "Court record" is any document, paper, or exhibit filed by the parties to an action or proceeding; any order or judgment of the court; and any item listed in Government Code section 68151(a), excluding any reporter's transcript for which the reporter is entitled to receive a fee for any copy. The term does not include the personal notes or preliminary memoranda of judges or other judicial branch personnel.

(2) "Electronic record" is a computerized court record, regardless of the manner in which it has been computerized. The term includes both a document that has been filed electronically and an electronic copy or version of a record that was filed in paper form. The term does not include a court record that is maintained only on microfiche, paper, or any other medium that can be read without the use of an electronic device.

(3) "The public" means an individual, a group, or an entity, including print or electronic media, or the representative of an individual, a group, or an entity.

(4) "Electronic access" means computer access to court records available to the public through both public terminals at the courthouse and remotely, unless otherwise specified in the rules in this chapter.

Rule 2.502 amended and renumbered effective January 1, 2007; adopted as rule 2072 effective July 1, 2002.

Rule 2.503. Public access

(a) General right of access

All electronic records must be made reasonably available to the public in some form, whether in electronic or in paper form, except those that are sealed by court order or made confidential by law.

(Subd (a) amended effective January 1, 2007.)

(b) Electronic access required to extent feasible

A court that maintains the following records in electronic form must provide electronic access to them, both remotely and at the courthouse, to the extent it is feasible to do so:

(1) Registers of actions (as defined in Gov. Code, § 69845), calendars, and indexes in all cases; and

(2) All records in civil cases, except those listed in (c)(1)–(6).

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 2004.)

(c) Courthouse electronic access only

A court that maintains the following records in electronic form must provide electronic access to them at the courthouse, to the extent it is feasible to do so, but may provide remote electronic access only to the records governed by (b):

(1) Records in a proceeding under the Family Code, including proceedings for dissolution, legal separation, and nullity of marriage; child and spousal support proceedings; and child custody proceedings;

(2) Records in a juvenile court proceeding;

(3) Records in a guardianship or conservatorship proceeding;

(4) Records in a mental health proceeding;

(5) Records in a criminal proceeding; and

(6) Records in a civil harassment proceeding under Code of Civil Procedure section 527.6.

(Subd (c) amended effective January 1, 2007; previously amended effective July 1, 2004.)

(d) "Feasible" defined

As used in this rule, the requirement that a court provide electronic access to its electronic records "to the extent it is feasible to do so" means that a court is required to provide electronic access to the extent it determines it has the resources and technical capacity to do so.

(Subd. (d) amended effective January 1, 2007.)

(e) Remote electronic access allowed in extraordinary criminal cases

Notwithstanding (c)(5), the presiding judge of the court, or a judge assigned by the presiding judge, may exercise discretion, subject to (e)(1), to permit electronic access by the public to all or a portion of the public court records in an individual criminal case if (1) the number of requests for access to documents in the case is extraordinarily high and (2) responding to those requests would significantly burden the operations of the court. An individualized determination must be made in each case in which such remote electronic access is provided.

(1) In exercising discretion under (e), the judge should consider the relevant factors, such as:

(A) The privacy interests of parties, victims, witnesses, and court personnel, and the ability of the court to redact sensitive personal information;

(B) The benefits to and burdens on the parties in allowing remote electronic access, including possible impacts on jury selection; and

(C) The burdens on the court in responding to an extraordinarily high number of requests for access to documents.

(2) The court should, to the extent feasible, redact the following information from records to which it allows remote access under (e): driver license numbers; dates of birth; social security numbers; Criminal Identification and Information and National Crime Information numbers; addresses and phone numbers of parties, victims, witnesses, and court personnel; medical or psychiatric information; financial information; account numbers; and other personal identifying information. The court may order any party who files a

document containing such information to provide the court with both an original unredacted version of the document for filing in the court file and a redacted version of the document for remote electronic access. No juror names or other juror identifying information may be provided by remote electronic access. This subdivision does not apply to any document in the original court file; it applies only to documents that are available by remote electronic access.

(3) Five days' notice must be provided to the parties and the public before the court makes a determination to provide remote electronic access under this rule. Notice to the public may be accomplished by posting notice on the court's Web site. Any person may file comments with the court for consideration, but no hearing is required.

(5) The court's order permitting remote electronic access must specify which court records will be available by remote electronic access and what categories of information are to be redacted. The court is not required to make findings of fact. The court's order must be posted on the court's Web site and a copy sent to the Judicial Council.

(Subd (e) amended effective January 1, 2007; adopted effective January 1, 2005.)

(f) Access only on a case-by-case basis

The court may only grant electronic access to an electronic record when the record is identified by the number of the case, the caption of the case, or the name of a party, and only on a case-by-case basis. This case-by-case limitation does not apply to the court's electronic records of a calendar, register of actions, or index.

(Subd (f) amended effective January 1, 2007; adopted as subd (e) effective July 1, 2002; previously relettered effective January 1, 2005.)

(g) Bulk distribution

The court may provide bulk distribution of only its electronic records of a calendar, register of actions, and index. "Bulk distribution" means distribution of all, or a significant subset, of the court's electronic records.

(Subd (g) amended effective January 1, 2007; adopted as subd (f) effective July 1, 2002; previously relettered effective January 1, 2005.)

(h) Records that become inaccessible

If an electronic record to which the court has provided electronic access is made inaccessible to the public by court order or by operation of law, the court is not required to take action with respect to any copy of the record that was made by the public before the record became inaccessible.

(Subd (h) relettered effective January 1, 2005; adopted as subd (g) effective July 1, 2002.)

(i) Off-site access

Courts should encourage availability of electronic access to court records at public off-site locations.

(Subd (i) relettered effective January 1, 2005; adopted as subd (h) effective July 1, 2002.)

Rule 2.503 amended and renumbered effective January 1, 2007; adopted as rule 2073 effective July 1, 2002; previously amended effective July 1, 2004, and January 1, 2005.

Advisory Committee Comment

The rule allows a level of access by the public to all electronic records that is at least equivalent to the access that is available for paper records and, for some types of records, is much greater. At the same time, it seeks to protect legitimate privacy concerns.

Subdivision (c). This subdivision excludes certain records (those other than the register, calendar, and indexes) in specified types of cases (notably criminal, juvenile, and family court matters) from remote electronic access. The committee recognized that while these case records are public records and should remain available at the courthouse, either in paper or electronic form, they often contain sensitive personal information. The court should not publish that information over the Internet. However, the committee also recognized that the use of the Internet may be appropriate in certain criminal cases of extraordinary public interest where information regarding a case will be widely disseminated through the media. In such cases, posting of selected nonconfidential court records, redacted where necessary to protect the privacy of the participants, may provide more timely and accurate information regarding the court proceedings, and may relieve substantial burdens on court staff in responding to individual requests for documents and information. Thus, under subdivision (e), if the presiding judge makes individualized determinations in a specific case, certain records in criminal cases may be made available over the Internet.

Subdivisions (f) (g). These subdivisions limit electronic access to records (other than the register, calendars, or indexes) to a case-by-case basis and prohibit bulk distribution of those records. These limitations are based on the qualitative difference between obtaining information from a specific case file and obtaining bulk information that may be manipulated to compile personal information culled from any document, paper, or exhibit filed in a lawsuit. This type of aggregate information may be exploited for commercial or other purposes unrelated to the operations of the courts, at the expense of privacy rights of individuals.

Courts must send a copy of the order permitting remote electronic access in extraordinary criminal cases to: Secretariat, Executive Office Programs Division, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, CA 94102-3688 or secretariat@jud.ca.gov.

Rule 2.504. Limitations and conditions

(a) Means of access

A court that maintains records in electronic form must provide electronic access to those records by means of a network or software that is based on industry standards or is in the public domain.

(Subd (a) amended effective January 1, 2007.)

(b) Official record

Unless electronically certified by the court, a trial court record available by electronic access is not the official record of the court.

(Subd (b) amended effective January 1, 2007.)

(c) Conditions of use by persons accessing records

A court may condition electronic access to its records on:

(1) The user's consent to access the records only as instructed by the court; and

(2) The user's consent to the court's monitoring of access to its records.

The court must give notice of these conditions, in any manner it deems appropriate. The court may deny access to a member of the public for failure to comply with either of these conditions of use.

(Subd (c) amended effective January 1, 2007.)

(d) Notices to persons accessing records

The court must give notice of the following information to members of the public accessing its records electronically, in any manner it deems appropriate:

(1) The identity of the court staff member to be contacted about the requirements for accessing the court's records electronically.

(2) That copyright and other proprietary rights may apply to information in a case file, absent an express grant of additional rights by the holder of the copyright or other proprietary right. This notice must advise the public that:

(A) Use of such information in a case file is permissible only to the extent permitted by law or court order; and

(B) Any use inconsistent with proprietary rights is prohibited.

(3) Whether electronic records are the official records of the court. The notice must describe the procedure and any fee required for obtaining a certified copy of an official record of the court.

(4) That any person who willfully destroys or alters any court record maintained in electronic form is subject to the penalties imposed by Government Code section 6201.

(Subd (d) amended effective January 1, 2007.)

(e) Access policy

The court must post a privacy policy on its public-access Web site to inform members of the public accessing its electronic records of the information it collects regarding access transactions and the uses that the court may make of the collected information.

(Subd (e) amended effective January 1, 2007.)

Rule 2.504 amended and renumbered effective January 1, 2007; adopted as rule 2074 effective July 1, 2002.

Rule 2.505. Contracts with vendors

(a) Contract must provide access consistent with rules

The court's contract with a vendor to provide public access to its electronic records must be consistent with the rules in this chapter and must require the vendor to provide public access to court records and to protect the confidentiality of court records as required by law or by court order.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 2002.)

(b) Contract must provide that court owns the records

Any contract between the court and a vendor to provide public access to the court's electronic records must provide that the court is the owner of these records and has the exclusive right to control their use.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 2002.)

Rule 2.505 amended and renumbered effective January 1, 2007; adopted as rule 2075 effective July 1, 2002.

Rule 2.506. Fees for electronic access

(a) Court may impose fees

The court may impose fees for the costs of providing public access to its electronic records, under Government Code section 68150(h). On request, the court must provide the public with a statement of the costs on which these fees are based.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 2002.)

(b) Fees of vendor must be reasonable

To the extent that public access to a court's electronic records is provided exclusively through a vendor, the court must ensure that any fees the vendor imposes for the costs of providing access are reasonable.

(Subd (b) lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 2002.)

Rule 2.506 amended and renumbered effective January 1, 2007; adopted as rule 2076 effective July 1, 2002.

Rule 2.507. Electronic access to court calendars, indexes, and registers of actions

(a) Intent

This rule specifies information to be included in and excluded from the court calendars, indexes, and registers of actions to which public access is available by electronic means under rule 2.503(b). To the extent it is feasible to do so, the court must maintain court calendars, indexes, and registers of actions available to the public by electronic means in accordance with this rule.

(Subd (a) amended effective January 1, 2007.)

(b) Minimum contents for electronically accessible court calendars, indexes, and registers of actions

(1) The electronic court calendar must include:

(A) Date of court calendar;

(B) Time of calendared event;

(C) Court department number;

(D) Case number; and

(E) Case title (unless made confidential by law).

(2) The electronic index must include:

(A) Case title (unless made confidential by law);

(B) Party names (unless made confidential by law);

(C) Party type;

(D) Date on which the case was filed; and

(E) Case number.

(3) The register of actions must be a summary of every proceeding in a case, in compliance with Government Code section 69845, and must include:

(A) Date case commenced;

(B) Case number;

(C) Case type;

(D) Case title (unless made confidential by law);

(E) Party names (unless made confidential by law);

(F) Party type;

(G) Date of each activity; and

(H) Description of each activity.

(Subd (b) amended effective January 1, 2007.)

(c) Information that must be excluded from court calendars, indexes, and registers of actions

The following information must be excluded from a court's electronic calendar, index, and register of actions:

(1) Social security number;

(2) Any financial information;

(3) Arrest warrant information;

(4) Search warrant information;

(5) Victim information;

(6) Witness information;

(7) Ethnicity;

(8) Age;

(9) Gender;

(10) Government-issued identification card numbers (i.e., military);

(11) Driver's license number; and

(12) Date of birth.

(Subd (c) amended effective January 1, 2007.)

Rule 2.507 amended and renumbered effective January 1, 2007; adopted as rule 2077 effective July 1, 2003.

Chapter 3. Sealed Records

Rule 2.550. Sealed records

(a) Application

(1) Rules 2.550–2.551 apply to records sealed or proposed to be sealed by court order.

(2) These rules do not apply to records that are required to be kept confidential by law.

(3) These rules do not apply to discovery motions and records filed or lodged in connection with discovery motions or proceedings. However, the rules do apply to discovery materials that are used at trial or submitted as a basis for adjudication of matters other than discovery motions or proceedings.

(Subd (a) amended effective January 1, 2007.)

(b) Definitions

As used in this chapter:

(1) "Record." Unless the context indicates otherwise, "record" means all or a portion of any document, paper, exhibit, transcript, or other thing filed or lodged with the court.

(2) "Sealed." A "sealed" record is a record that by court order is not open to inspection by the public.

(3) "Lodged." A "lodged" record is a record that is temporarily placed or deposited with the court, but not filed.

(Subd (b) amended effective January 1, 2007.)

(c) Court records presumed to be open

Unless confidentiality is required by law, court records are presumed to be open.

(d) Express factual findings required to seal records

The court may order that a record be filed under seal only if it expressly finds facts that establish:

(1) There exists an overriding interest that overcomes the right of public access to the record;

(2) The overriding interest supports sealing the record;

(3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;

(4) The proposed sealing is narrowly tailored; and

(5) No less restrictive means exist to achieve the overriding interest.

(Subd (d) amended effective January 1, 2004.)

(e) Content and scope of the order

(1) An order sealing the record must:

(A) Specifically state the facts that support the findings; and

(B) Direct the sealing of only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each document or page must be included in the public file.

(2) Consistent with Code of Civil Procedure sections 639 and 645.1, if the records that a party is requesting be placed under seal are voluminous, the court may appoint a referee and fix and allocate the referee's fees among the parties.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 2004.)

Rule 2.550 amended and renumbered effective January 1, 2007; adopted as rule 243.1 effective January 1, 2001; previously amended effective January 1, 2004.

Advisory Committee Comment

This rule and rule 2.551 provide a standard and procedures for courts to use when a request is made to seal a record. The standard is based on *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178. These rules apply to civil and criminal cases. They recognize the First Amendment right of access to documents used at trial or as a basis of adjudication. The rules do not apply to records that courts must keep confidential by law. Examples of confidential records to which public access is restricted by law are records of the family conciliation court (Family Code, § 1818(b)), in forma pauperis applications (Cal. Rules of Court, rule 985(h)), and search warrant affidavits sealed under *People v. Hobbs* (1994) 7 Cal.4th 948. The sealed records rules also do not apply to discovery proceedings,

motions, and materials that are not used at trial or submitted to the court as a basis for adjudication. (See *NBC Subsidiary, supra,* 20 Cal.4th at pp. 1208–1209, fn. 25.)

Rule 2.550(d)–(e) is derived from *NBC Subsidiary*. That decision contains the requirements that the court, before closing a hearing or sealing a transcript, must find an "overriding interest" that supports the closure or sealing, and must make certain express findings. (*Id*. at pp. 1217–1218.) The decision notes that the First Amendment right of access applies to records filed in both civil and criminal cases as a basis for adjudication. (*Id.* at pp. 1208–1209, fn. 25.) Thus, the *NBC Subsidiary* test applies to the sealing of records.

NBC Subsidiary provides examples of various interests that courts have acknowledged may constitute "overriding interests." (See *id.* at p. 1222, fn. 46.) Courts have found that, under appropriate circumstances, various statutory privileges, trade secrets, and privacy interests, when properly asserted and not waived, may constitute "overriding interests." The rules do not attempt to define what may constitute an "overriding interest," but leave this to case law.

Rule 2.551. Procedures for filing records under seal

(a) Court approval required

A record must not be filed under seal without a court order. The court must not permit a record to be filed under seal based solely on the agreement or stipulation of the parties.

(Subd (a) amended effective January 1, 2007.)

(b) Motion or application to seal a record

(1) *Motion or application required*

A party requesting that a record be filed under seal must file a motion or an application for an order sealing the record. The motion or application must be accompanied by a memorandum and a declaration containing facts sufficient to justify the sealing.

(2) *Service of motion or application*

A copy of the motion or application must be served on all parties that have appeared in the case. Unless the court orders otherwise, any party that already possesses copies of the records to be placed under seal must be served with a complete, unredacted version of all papers as well as a redacted version.

(3) *Procedure for party not intending to file motion or application*

(A) A party that files or intends to file with the court, for the purposes of adjudication or to use at trial, records produced in discovery that are

subject to a confidentiality agreement or protective order, and does not intend to request to have the records sealed, must:

(i) Lodge the unredacted records subject to the confidentiality agreement or protective order and any pleadings, memorandums, declarations, and other documents that disclose the contents of the records, in the manner stated in (d);

(ii) File copies of the documents in (i) that are redacted so that they do not disclose the contents of the records that are subject to the confidentiality agreement or protective order; and

(iii) Give written notice to the party that produced the records that the records and the other documents lodged under (i) will be placed in the public court file unless that party files a timely motion or application to seal the records under this rule.

(B) If the party that produced the documents and was served with the notice under (A)(iii) fails to file a motion or an application to seal the records within 10 days or to obtain a court order extending the time to file such a motion or an application, the clerk must promptly remove all the documents in (A)(i) from the envelope or container where they are located and place them in the public file. If the party files a motion or an application to seal within 10 days or such later time as the court has ordered, these documents are to remain conditionally under seal until the court rules on the motion or application and thereafter are to be filed as ordered by the court.

(4) *Lodging of record pending determination of motion or application*

The party requesting that a record be filed under seal must lodge it with the court under (d) when the motion or application is made, unless good cause exists for not lodging it or the record has previously been lodged under (3)(A)(i). Pending the determination of the motion or application, the lodged record will be conditionally under seal.

(5) *Redacted and unredacted versions*

If necessary to prevent disclosure, any motion or application, any opposition, and any supporting documents must be filed in a public redacted version and lodged in a complete version conditionally under seal.

(6) *Return of lodged record*

If the court denies the motion or application to seal, the clerk must return the lodged record to the submitting party and must not place it in the case file unless that party notifies the clerk in writing within 10 days after the order denying the motion or application that the record is to be filed.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(c) References to nonpublic material in public records

A record filed publicly in the court must not disclose material contained in a record that is sealed, conditionally under seal, or subject to a pending motion or an application to seal.

(Subd (c) amended effective January 1, 2004.)

(d) Procedure for lodging of records

(1) A record that may be filed under seal must be put in an envelope or other appropriate container, sealed in the envelope or container, and lodged with the court.

(2) The envelope or container lodged with the court must be labeled "CONDITIONALLY UNDER SEAL."

(3) The party submitting the lodged record must affix to the envelope or container a cover sheet that:

(A) Contains all the information required on a caption page under rule 2.111; and

(B) States that the enclosed record is subject to a motion or an application to file the record under seal.

(4) On receipt of a record lodged under this rule, the clerk must endorse the affixed cover sheet with the date of its receipt and must retain but not file the record unless the court orders it filed.

(Subd (d) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(e) Order

(1) If the court grants an order sealing a record, the clerk must substitute on the envelope or container for the label required by (d)(2) a label prominently stating "SEALED BY ORDER OF THE COURT ON *(DATE)*," and must replace the cover sheet required by (d)(3) with a filed-endorsed copy of the court's order.

(2) The order must state whether—in addition to records in the envelope or container—the order itself, the register of actions, any other court records, or any other records relating to the case are to be sealed.

(3) The order must state whether any person other than the court is authorized to inspect the sealed record.

(4) Unless the sealing order provides otherwise, it prohibits the parties from disclosing the contents of any materials that have been sealed in any subsequently filed records or papers.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(f) Custody of sealed records

Sealed records must be securely filed and kept separate from the public file in the case.

(Subd (f) amended effective January 1, 2004.)

(g) Custody of voluminous records

If the records to be placed under seal are voluminous and are in the possession of a public agency, the court may by written order direct the agency instead of the clerk to maintain custody of the original records in a secure fashion. If the records are requested by a reviewing court, the trial court must order the public agency to deliver the records to the clerk for transmission to the reviewing court under these rules.

(h) Motion, application, or petition to unseal records

(1) A sealed record must not be unsealed except on order of the court.

(2) A party or member of the public may move, apply, or petition, or the court on its own motion may move, to unseal a record. Notice of any motion, application, or petition to unseal must be filed and served on all parties in the case. The motion, application, or petition and any opposition, reply, and

supporting documents must be filed in a public redacted version and a sealed complete version if necessary to comply with (c).

(3) If the court proposes to order a record unsealed on its own motion, the court must mail notice to the parties stating the reason therefor. Any party may serve and file an opposition within 10 days after the notice is mailed or within such time as the court specifies. Any other party may file a response within 5 days after the filing of an opposition.

(4) In determining whether to unseal a record, the court must consider the matters addressed in rule 2.550(c)–(e).

(5) The order unsealing a record must state whether the record is unsealed entirely or in part. If the court's order unseals only part of the record or unseals the record only as to certain persons, the order must specify the particular records that are unsealed, the particular persons who may have access to the record, or both. If, in addition to the records in the envelope or container, the court has previously ordered the sealing order, the register of actions, or any other court records relating to the case to be sealed, the unsealing order must state whether these additional records are unsealed.

(Subd (h) amended effective January 1, 2007; previously amended effective January 1, 2004.)

Rule 2.551 amended and renumbered effective January 1, 2007; adopted as rule 243.2 effective January 1, 2001; previously amended effective January 1, 2004.

Chapter 4. Records in False Claims Act Cases

Rule 2.570. Filing False Claims Act records under seal

(a) Application

Rules 2.570–2.573 apply to records initially filed under seal pursuant to the False Claims Act, Government Code section 12650 et seq. As to these records, rules 2.550–2.551 on sealed records do not apply.

(Subd (a) amended effective January 1, 2007.)

(b) Definitions

As used in this chapter, unless the context or subject matter otherwise requires:

(1) "Attorney General" means the Attorney General of the State of California.

(2) "Prosecuting authority" means the county counsel, city attorney, or other local government official charged with investigating, filing, and conducting civil legal proceedings on behalf of or in the name of a particular political subdivision.

(3) "*Qui tam* plaintiff" means a person who files a complaint under the False Claims Act.

(4) The definitions in Government Code section 12650 apply to the rules in this chapter.

(Subd (b) amended effective January 1, 2007.)

(c) Confidentiality of records filed under the False Claims Act

Records of actions filed by a *qui tam* plaintiff must initially be filed as confidential and under seal as required by Government Code section 12652(c). Until the seal is lifted, the records in the action must remain under seal, except to the extent otherwise provided in this rule.

(d) Persons permitted access to sealed records in a False Claims Act case

(1) *Public access prohibited*

As long as the records in a False Claims Act case are under seal, public access to the records in the case is prohibited. The prohibition on public access applies not only to filed documents but also to electronic records that would disclose information about the case, including the identity of any plaintiff or defendant.

(2) *Information on register of actions*

As long as the records in a False Claims Act case are under seal, only the information concerning filed records contained on the confidential cover sheet prescribed under rule 2.571(c) may be entered into the register of actions that is accessible to the public.

(3) Parties permitted access to the sealed court file

As long as the records in a False Claims Act case are under seal, the only parties permitted access to the court file are:

(A) The Attorney General;

(B) A prosecuting authority for the political subdivision on whose behalf the action is brought, unless the political subdivision is named as a defendant; and

(C) A prosecuting authority for any other political subdivision interested in the matter whose identity has been provided to the court by the Attorney General.

(4) *Parties not permitted access to the sealed court file*

As long as records in a False Claims Act case are under seal, no defendant is permitted to have access to the court records or other information concerning the case. Defendants not permitted access include any political subdivision that has been named as a defendant in a False Claims Act action.

(5) Qui tam *plaintiff's limited access to sealed court file*-

The *qui tam* plaintiff in a False Claims Act case may have access to all documents filed by the *qui tam* plaintiff and to such other documents as the court may order.

(Subd (d) amended effective January 1, 2007.)

Rule 2.570 amended and renumbered effective January 1, 2007; adopted as rule 243.5 effective July 1, 2002.

Rule 2.571. Procedures for filing records under seal in a False Claims Act case

(a) No sealing order required

On the filing of an action under the False Claims Act, the complaint, motions for extensions of time, and other papers filed with the court must be kept under seal. Under Government Code section 12652, no order sealing these records is necessary.

(Subd (a) amended effective January 1, 2007.)

(b) Filing a False Claims Act case in a county where filings are accepted in multiple locations

In a county where complaints in civil cases may be filed in more than one location, the presiding judge must designate one particular location where all filings in False Claims Act cases must be made.

(Subd (b) amended effective January 1, 2007.)

(c) Special cover sheet omitting names of the parties

In a False Claims Act case, the complaint and every other paper filed while the case is under seal must have a completed *Confidential Cover Sheet—False Claims Action* (form MC-060) affixed to the first page.

(Subd (c) amended effective January 1, 2007.)

(d) Filing of papers under seal

When the complaint or other paper in a False Claims Act case is filed under seal, the clerk must stamp both the cover sheet and the caption page of the paper.

(Subd (d) amended effective January 1, 2007.)

(e) Custody of sealed records

Records in a False Claims Act case that are confidential and under seal must be securely filed and kept separate from the public file in the case.

(Subd (e) amended effective January 1, 2007.)

Rule 2.571 amended and renumbered effective January 1, 2007; adopted as rule 243.6 effective July 1, 2002.

Rule 2.572. Ex parte application for an extension of time

A party in a False Claims Act case may apply under the ex parte rules in title 3 for an extension of time under Government Code section 12652.

Rule 2.572 amended and renumbered effective January 1, 2007; adopted as rule 243.7 effective July 1, 2002.

Rule 2.573. Unsealing of records and management of False Claims Act cases

(a) Expiration or lifting of seal

(1) Records in a False Claims Act case to which public access has been prohibited under Government Code section 12652(c) must remain under seal until the Attorney General and all local prosecuting authorities involved in the action have notified the court of their decision to intervene or not intervene.

(2) The Attorney General and all local prosecuting authorities involved in the action must give the notice required under (1) within 60 days of the filing of the complaint or before an order extending the time to intervene has expired, unless a new motion to extend time to intervene is pending, in which case the seal remains in effect until a ruling is made on the motion.

(Subd (a) amended effective January 1, 2007.)

(b) Coordination of state and local authorities

The Attorney General and all local prosecuting authorities must coordinate their activities to provide timely and effective notice to the court that:

(1) A political subdivision or subdivisions remain interested in the action and have not yet determined whether to intervene; or

(2) The seal has been extended by the filing or grant of a motion to extend time to intervene, and therefore the seal has not expired.

(Subd (b) amended effective January 1, 2007.)

(c) Designation of lead local prosecuting authority

In a False Claims Act case in which the Attorney General is not involved or has declined to intervene and local prosecuting authorities remain interested in the action, the court may designate a lead prosecuting authority to keep the court apprised of whether all the prosecuting authorities have either intervened or declined to intervene, and whether the seal is to be lifted.

(d) Order unsealing record

The Attorney General or other prosecuting authority filing a notice of intervention or nonintervention must submit a proposed order indicating the documents that are to be unsealed or to remain sealed.

(e) Case management

(1) *Case management conferences*

The court, at the request of the parties or on its own motion, may hold a conference at any time in a False Claims Act case to determine what case management is appropriate for the case, including the lifting or partial lifting of the seal, the scheduling of trial and other events, and any other matters that may assist in managing the case.

(2) *Exemption from case management rules*

Cases under the False Claims Act are exempt from rule 3.110 and the case management rules in title 3, division 7, but are subject to such case management orders as the court may issue.

(Subd (e) amended effective January 1, 2007.)

Rule 2.573 amended and renumbered effective January 1, 2007; adopted as rule 243.8 effective July 1, 2002.

Chapter 5. Other Sealed or Closed Records

Rule 2.580. Request for delayed public disclosure

In an action in which the prejudgment attachment remedy under Code of Civil Procedure section 483.010 et seq. is sought, if the plaintiff requests at the time a complaint is filed that the records in the action or the fact of the filing of the action be made temporarily unavailable to the public under Code of Civil Procedure section 482.050, the plaintiff must file a declaration stating one of the following:

(1) "This action is on a claim for money based on contract against a defendant who is not a natural person. The claim is not secured within the meaning of Code of Civil Procedure section 483.010(b)."—or—

(2) "This action is on a claim for money based on contract against a defendant who is a natural person. The claim arises out of the defendant's conduct of a trade, business,

or profession, and the money, property, or services were not used by the defendant primarily for personal, family, or household purposes. The claim is not secured within the meaning of Code of Civil Procedure section 483.010(b)."

Rule 2.580 renumbered effective January 1, 2007; adopted as rule 243.3 effective January 1, 2001

Rule 2.585. Confidential in-camera proceedings

(a) Minutes of proceedings

If a confidential in-camera proceeding is held in which a party is excluded from being represented, the clerk must include in the minutes the nature of the hearing and only such references to writings or witnesses as will not disclose privileged information.

(b) Disposition of examined records

Records examined by the court in confidence under (a), or copies of them, must be filed with the clerk under seal and must not be disclosed without court order.

Rule 2.585 renumbered effective January 1, 2007; adopted as rule 243.4 effective January 1, 2001

Division 5. Venue and Sessions

Chapter 1. Venue [Reserved]

Rule 2.700. Intracounty venue [Reserved]

Rule 2.700 adopted effective January 1, 2007.

Chapter 2. Sessions [Reserved]

Division 6. Appointments by the Court or Agreement of the Parties

Chapter 1. Court-Appointed Temporary Judges

Rule 2.810. Temporary judges appointed by the trial courts

(a) Scope of rules

Rules 2.810–2.819 apply to attorneys who serve as court-appointed temporary judges in the trial courts. The rules do not apply to subordinate judicial officers, to retired judicial officers appointed by the courts to serve as temporary judges, or to attorneys designated by the courts to serve as temporary judges at the parties' request.

(Subd (a) amended effective January 1, 2007.)

(b) Definition of "court-appointed temporary judge"

A "court-appointed temporary judge" means an attorney who has satisfied the requirements for appointment under rule 2.812 and has been appointed by the court to serve as a temporary judge in that court.

(Subd (b) amended effective January 1, 2007.)

(c) Appointment of attorneys as temporary judges

Trial courts may appoint an attorney as a temporary judge only if the attorney has satisfied the requirements of rule 2.812.

(Subd (c) amended effective January 1, 2007.)

(d) Exception for extraordinary circumstances

A presiding judge may appoint an attorney who is qualified under 2.812(a), but who has not satisfied the other requirements of that rule, only in case of extraordinary circumstances. Any appointment under this subdivision based on extraordinary

circumstances must be made before the attorney serves as a temporary judge, must be recorded for reporting purposes under rule 10.742(c)(3), and must not last more than 10 court days in a three-year period.

(Subd (d) amended effective January 1, 2007.)

Rule 2.810 amended and renumbered effective January 1, 2007; adopted as rule 243.11 effective July 1, 2006.

Rule 2.811. Court appointment of temporary judges

(a) Purpose of court appointment

The purpose of court appointment of attorneys as temporary judges is to assist the public by providing the court with a panel of trained, qualified, and experienced attorneys who may serve as temporary judges at the discretion of the court if the court needs judicial assistance that it cannot provide using its full-time judicial officers.

(b) Appointment and service discretionary

Court-appointed attorneys are appointed and serve as temporary judges solely at the discretion of the presiding judge.

(c) No employment relationship

Court appointment and service of an attorney as a temporary judge do not establish an employment relationship between the court and the attorney.

(d) Responsibility of the presiding judge for appointments

The appointment of attorneys to serve as temporary judges is the responsibility of the presiding judge, who may designate another judge or committee of judges to perform this responsibility. In carrying out this responsibility, the presiding judge is assisted by a Temporary Judge Administrator as prescribed by rule 10.743.

(Subd (d) amended effective January 1, 2007.)

Rule 2.811 amended and renumbered effective January 1, 2007; adopted as rule 243.12 effective July 1, 2006.

Rule 2.812. Requirements for court appointment of an attorney to serve as a temporary judge

(a) Experience required for appointment and service

The presiding judge may not appoint an attorney to serve as a temporary judge unless the attorney has been admitted to practice as a member of the State Bar of California for at least 10 years before the appointment. However, for good cause, the presiding judge may permit an attorney who has been admitted to practice for at least 5 years to serve as a temporary judge.

(b) Conditions for appointment by the court

The presiding judge may appoint an attorney to serve as a temporary judge only if the attorney:

(1) Is a member in good standing of the State Bar and has no disciplinary action pending;

(2) Has not pled guilty or no contest to a felony, or has not been convicted of a felony that has not been reversed;

(3) Has satisfied the education and training requirements in (c);

(4) Has satisfied all other general conditions that the court may establish for appointment of an attorney as a temporary judge in that court; and

(5) Has satisfied any additional conditions that the court may require for an attorney to be appointed as a temporary judge for a particular assignment or type of case in that court.

(c) Education and training requirements

The presiding judge may appoint an attorney to serve as a temporary judge only if the following minimum training requirements are satisfied:

(1) *Mandatory training on bench conduct and demeanor*

Before appointment, the attorney must have attended and successfully completed, within the previous three years, a course of at least 3 hours duration on the subjects identified in rule 2.813(a) approved by the court in which the attorney will serve. This course must be taken in person and be taught by a qualified judicial officer or other person approved by the Administrative Office of the Courts.

(2) *Mandatory training in ethics*

Before appointment, the attorney must have attended and successfully completed, within the previous three years, a course of at least 3 hours duration on the subjects identified in rule 2.813(b) approved by the court in which the attorney will serve. This course may be taken by any means approved by the court, including in-person, by broadcast with participation, or online.

(3) *Substantive training*

Before appointment, the attorney must have attended and successfully completed, within the previous three years, a course on the substantive law in each subject area in which the attorney will serve as a temporary judge. These courses may be taken by any means approved by the court, including in-person, by broadcast with participation, or online. The substantive courses have the following minimum requirements:

(A) *Small claims*

An attorney serving as a temporary judge in small claims cases must have attended and successfully completed, within the previous three years, a course of at least 3 hours duration on the subjects identified in rule 2.813(c) approved by the court in which the attorney will serve.

(B) *Traffic*

An attorney serving as a temporary judge in traffic cases must have attended and completed, within the previous three years, a course of at least 3 hours duration on the subjects identified in rule 2.813(d) approved by the court in which the attorney will serve.

(C) *Other subject areas*

If the court assigns attorneys to serve as temporary judges in other substantive areas such as civil law, family law, juvenile law, unlawful detainers, or case management, the court must determine what additional training is required and what additional courses are required before an attorney may serve as a temporary judge in each of those subject areas. The training required in each area must be of at least 3 hours duration. The court may also require that an attorney possess additional years of practical experience in each substantive area before being assigned to serve as a temporary judge in that subject area.

(D) *Settlement*

An attorney need not be a temporary judge to assist the court in settlement conferences. However, an attorney assisting the court with settlement conferences who performs any judicial function, such as entering a settlement on the record under Code of Civil Procedure section 664.6, must be a qualified temporary judge who has satisfied the training requirements under (c)(1) and (c)(2) of this rule.

(E) The substantive training requirements in (3)(A)–(C) do not apply to courts in which temporary judges are used fewer than 10 times altogether in a calendar year.

(Subd (c) amended effective January 1, 2007.)

(d) Additional requirements

The presiding judge in each court should establish additional experience and training requirements for temporary judges beyond the minimum requirements provided in this rule if it is feasible for the court to do so.

(e) Records of attendance

A court that uses temporary judges must maintain records verifying that each attorney who serves as a temporary judge in that court has attended and successfully completed the courses required under this rule.

(f) Application and appointment

To serve as a temporary judge, an attorney must complete the application required under rule 10.744, must satisfy the requirements prescribed in this rule, and must satisfy such other requirements as the court appointing the attorney in its discretion may determine are appropriate.

(Subd (f) amended effective January 1, 2007.)

Rule 2.812 amended and renumbered effective January 1, 2007; adopted as rule 243.13 effective July 1, 2006.

Advisory Committee Comment

The goal of this rule is to ensure that attorneys who serve as court-appointed temporary judges are qualified and properly trained.

Subdivision (a). If a court determines that there is good cause under (a) to appoint an attorney with less than 10 years of practice as a temporary judge, the attorney must still satisfy the other requirements of the rule before being appointed.

Subdivision (b). "Good standing" means that the attorney is currently eligible to practice law in the State of California. An attorney in good standing may be either an active or a voluntarily inactive member of the State Bar. The rule does not require that an attorney be an active member of the State Bar to serve as a court-appointed temporary judge. Voluntarily inactive members may be appointed as temporary judges if the court decides to appoint them.

Subdivision (c). A court may use attorneys who are not temporary judges to assist in the settlement of cases. For example, attorneys may work under the presiding judge or individual judges and may assist them in settling cases. However, these attorneys may not perform any judicial functions such as entering a settlement on the record under Code of Civil Procedure section 664.6. Settlement attorneys who are not temporary judges are not required to satisfy the requirements of these rules, but must satisfy any requirements established by the court for attorneys who assist in the settlement of cases.

Rule 2.813. Contents of training programs

(a) Bench conduct

Before the court may appoint an attorney to serve as a temporary judge in any type of case, the attorney must have received training under rule 2.812(c)(1) in the following subjects:

(1) Bench conduct, demeanor, and decorum;

(2) Access, fairness, and elimination of bias; and

(3) Adjudicating cases involving self-represented parties.

(Subd (a) amended effective January 1, 2007.)

(b) Ethics

Before the court may appoint an attorney to serve as a temporary judge in any type of case, the attorney must have received ethics training under rule 2.812(c)(2) in the following subjects:

(1) Judicial ethics generally;

(2) Conflicts;

(3) Disclosures, disqualifications, and limitations on appearances; and

(4) Ex parte communications.

(Subd (b) amended effective January 1, 2007.)

(c) Small claims

Before the court may appoint an attorney to serve as a temporary judge in small claims cases, the attorney must have received training under rule 2.812(c)(3)(A) in the following subjects:

(1) Small claims procedures and practices;

(2) Consumer sales;

(3) Vehicular sales, leasing, and repairs;

(4) Credit and financing transactions;

(5) Professional and occupational licensing;

(6) Tenant rent deposit law;

(7) Contract, warranty, tort, and negotiable instruments law; and

(8) Other subjects deemed appropriate by the presiding judge based on local needs and conditions.

In addition, an attorney serving as a temporary judge in small claims cases must be familiar with the publications identified in Code of Civil Procedure section 116.930.

(Subd (c) amended effective January 1, 2007.)

(d) Traffic

Before the court may appoint an attorney to serve as a temporary judge in traffic cases, the attorney must have received training under rule 2.812(c)(3)(B) in the following subjects:

(1) Traffic court procedures and practices;

(2) Correctable violations;

(3) Discovery;

(4) Driver licensing;

(5) Failure to appear;

(6) Mandatory insurance;

(7) Notice to appear citation forms;

(8) Red-light enforcement;

(9) Sentencing and court-ordered traffic school;

(10) Speed enforcement;

(11) Settlement of the record;

(12) Uniform bail and penalty schedules;

(13) Vehicle registration and licensing; and

(14) Other subjects deemed appropriate by the presiding judge based on local needs and conditions.

(Subd (d) amended effective January 1, 2007.)

Rule 2.813 amended and renumbered effective January 1, 2007; adopted as rule 243.14 effective July 1, 2006.

Advisory Committee Comment

The purpose of this rule is to ensure that all court-appointed temporary judges have proper training in bench conduct and demeanor, ethics, and each substantive area in which they adjudicate cases. Each court is responsible for approving the training and instructional materials for the temporary judges appointed by that court. The training in bench conduct and demeanor must be in person, but in other areas each court may determine the approved method or methods by which the training is provided. The methods may include in-person courses, broadcasts with participation, and online courses. Courts may offer MCLE credit for courses that they provide and may approve MCLE courses provided by others as satisfying the substantive training requirements under this rule. Courts may work together with other courts, or may cooperate on a regional basis, to develop and provide training programs for court-appointed temporary judges under this rule.

Rule 2.814. Appointment of temporary judge

An attorney may serve as a temporary judge for the court only after the court has issued an order appointing him or her to serve. Before serving, the attorney must subscribe the

oath of office and must certify that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and the California Rules of Court.

Rule 2.814 renumbered effective January 1, 2007; adopted as rule 243.15 effective July 1, 2006.

Rule 2.815. Continuing education

(a) Continuing education required

Each attorney appointed as a temporary judge must attend and successfully complete every three years a course on bench conduct and demeanor, an ethics course, and a course in each substantive area in which the attorney will serve as a temporary judge. The courses must cover the same subjects and be of the same duration as the courses prescribed in rule 2.812(c). These courses must be approved by the court that appoints the attorney.

(Subd (a) amended effective January 1, 2007.)

(b) Records of attendance

A court that uses temporary judges must maintain records verifying that each attorney who serves as a temporary judge in that court has attended and successfully completed the courses required under this rule.

Rule 2.815 amended and renumbered effective January 1, 2007; adopted as rule 243.17 effective July 1, 2006.

Rule 2.816. Stipulation to court-appointed temporary judge

(a) Application

This rule governs a stipulation for a matter to be heard by a temporary judge when the court has appointed and assigned an attorney to serve as a temporary judge in that court.

(Subd (a) adopted effective July 1, 2006.)

(b) Contents of notice

Before the swearing in of the first witness at a small claims hearing, before the entry of a plea by the defendant at a traffic arraignment, or before the commencement of any other proceeding, the court must give notice to each party that:

(1) A temporary judge will be hearing the matters for that calendar;

(2) The temporary judge is a qualified member of the State Bar and the name of the temporary judge is provided; and

(3) The party has a right to have the matter heard before a judge, commissioner, or referee of the court.

(Subd (b) amended and relettered effective July 1, 2006; adopted as subd (a) effective January 1, 2001.)

(c) Form of notice

The court may give the notice in (b) by either of the following methods:

(1) A conspicuous sign posted inside or just outside the courtroom, accompanied by oral notification or notification by videotape or audiotape by a court officer on the day of the hearing; or

(2) A written notice provided to each party.

(Subd (c) amended and relettered effective July 1, 2006; adopted as subd (b) effective January 1, 2001.)

(d) Methods of stipulation

After notice has been given under (a) and (b), a party stipulates to a court-appointed temporary judge by either of the following:

(1) The party is deemed to have stipulated to the attorney serving as a temporary judge if the party fails to object to the matter being heard by the temporary judge before the temporary judge begins the proceeding; or

(2) The party signs a written stipulation agreeing that the matter may be heard by the temporary judge.

(Subd (d) amended effective January 1, 2007; adopted effective July 1, 2006.)

(e) Application or motion to withdraw stipulation

An application or motion to withdraw a stipulation for the appointment of a temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation. In addition:

(1) The application or motion must be heard by the presiding judge or a judge designated by the presiding judge.

(2) A declaration that a ruling by a temporary judge is based on an error of fact or law does not establish good cause for withdrawing a stipulation.

(3) The application or motion must be served and filed, and the moving party must mail or deliver a copy to the presiding judge.

(4) If the application or motion for withdrawing the stipulation is based on grounds for the disqualification of, or limitation of the appearance by, the temporary judge first learned or arising after the temporary judge has made one or more rulings, but before the temporary judge has completed judicial action in the proceeding, the temporary judge, unless the disqualification or termination is waived, must disqualify himself or herself. But in the absence of good cause, the rulings the temporary judge has made up to that time must not be set aside by the judicial officer or temporary judge who replaces the temporary judge.

(Subd (e) amended effective January 1, 2007; adopted effective July 1, 2006.)

Rule 2.816 amended and renumbered effective January 1, 2007; adopted as rule 1727 effective January 1, 2001; previously amended and renumbered as rule 243.18 effective July 1, 2006.

Rule 2.817. Disclosures to the parties

A temporary judge must make all disclosures required under the Code of Judicial Ethics.

Rule 2.817 renumbered effective January 1, 2007; adopted as rule 243.19 effective July 1, 2006.

Rule 2.818. Disqualifications and limitations

(a) Code of Judicial Ethics

A temporary judge must disqualify himself or herself as a temporary judge in proceedings as provided under the Code of Judicial Ethics.

(Subd (a) lettered effective July 1, 2006; adopted as unlettered subd effective July 1, 2006.)

(b) Limitations on service

In addition to being disqualified as provided in (a), an attorney may not serve as a court-appointed temporary judge:

(1) If the attorney, in any type of case, is appearing on the same day in the same courthouse as an attorney or as a party;

(2) If the attorney, in the same type of case, is presently a party to any action or proceeding in the court; or

(3) If, in a family law or unlawful detainer case, one party is self-represented and the other party is represented by an attorney or is an attorney.

For good cause, the presiding judge may waive the limitations established in this subdivision.

(Subd (b) adopted effective July 1, 2006.)

(c) Waiver of disqualifications or limitations

(1) After a temporary judge who has determined himself or herself to be disqualified under the Code of Judicial Ethics or prohibited from serving under (b) has disclosed the basis for his or her disqualification or limitation on the record, the parties and their attorneys may agree to waive the disqualification or limitation and the temporary judge may accept the waiver. The temporary judge must not seek to induce a waiver and must avoid any effort to discover which attorneys or parties favored or opposed a waiver. The waiver must be in writing, must recite the basis for the disqualification or limitation, and must state that it was knowingly made. The waiver is effective only when signed by all parties and their attorneys and filed in the record.

(2) No waiver is permitted where the basis for the disqualification is any of the following:

(A) The temporary judge has a personal bias or prejudice concerning a party;

(B) The temporary judge has served as an attorney in the matter in controversy; or

(C) The temporary judge has been a material witness in the controversy.

(Subd (c) adopted effective July 1, 2006).

(d) Late discovery of grounds for disqualification or limitation

In the event that grounds for disqualification or limitation are first learned of or arise after the temporary judge has made one or more rulings in a proceeding, but

before the temporary judge has completed judicial action in the proceeding, the temporary judge, unless the disqualification or limitation is waived, must disqualify himself or herself. But in the absence of good cause, the rulings the temporary judge has made up to that time must not be set aside by the judicial officer or temporary judge who replaces the temporary judge.

(Subd (d) amended effective January 1, 2007; adopted effective July 1, 2006.)

(e) Notification of the court

Whenever a temporary judge determines himself or herself to be disqualified or limited from serving, the temporary judge must notify the presiding judge or the judge designated by the presiding judge of his or her withdrawal and must not further participate in the proceeding, unless his or her disqualification or limitation is waived by the parties as provided in (c).

(Subd (e) adopted effective July 1, 2006.)

(f) Requests for disqualifications

A party may request that a temporary judge withdraw on the ground that he or she is disqualified or limited from serving. If a temporary judge who should disqualify himself or herself or who is limited from serving in a case fails to withdraw, a party may apply to the presiding judge under rule 2.816(e) of the California Rules of Court for a withdrawal of the stipulation. The presiding judge or the judge designated by the presiding judge must determine whether good cause exists for granting withdrawal of the stipulation.

(Subd (f) amended effective January 1, 2007; previously adopted effective July 1, 2006.)

Rule 2.818 amended and renumbered effective January 1, 2007; adopted as rule 243.20 effective July 1, 2006; previously amended effective July 1, 2006.

Advisory Committee Comment

Subdivision (a) indicates that the rules concerning the disqualification of temporary judges are provided in the Code of Judicial Ethics. Subdivision (b) establishes additional limitations that prohibit attorneys from serving as court-appointed temporary judges under certain specified circumstances. Under subdivisions (c)–(e), the provisions of Code of Civil Procedure section 170.3 on waiver of disqualifications, the effect of late discovery of the grounds of disqualification, and notification of disqualification of judicial officers are made applicable to temporary judges. Under subdivision (f), requests for disqualification are handled as withdrawals of the stipulation to a temporary judge and are ruled on by the presiding judge. This procedure is different from that for seeking the disqualification of a judge under Code of Civil Procedure section 170.3.

Rule 2.819. Continuing duty to disclose and disqualify

A temporary judge has a continuing duty to make disclosures, to disqualify himself or herself, and to limit his or her service as provided under the Code of Judicial Ethics.

Rule 2.819 renumbered effective January 1, 2007; adopted as rule 243.21 effective July 1, 2006.

Chapter 2. Temporary Judges Requested by the Parties

Rule 2.830. Temporary judges requested by the parties

(a) Application

Rules 2.830–2.834 apply to attorneys designated as temporary judges under article VI, section 21 of the California Constitution at the request of the parties rather than by prior appointment of the court, including privately compensated temporary judges and attorneys who serve as temporary judges pro bono at the request of the parties.

(Subd (a) amended effective January 1, 2007.)

(b) Definition

"Privately compensated" means that the temporary judge is paid by the parties.

(c) Limitation

These rules do not apply to subordinate judicial officers or to attorneys who are appointed by the court to serve as temporary judges for the court.

Rule 2.830 amended and renumbered effective January 1, 2007; adopted as rule 243.30 effective July 1, 2006.

Rule 2.831. Temporary judge—stipulation, order, oath, assignment, disclosure, and disqualification

(a) Stipulation

When the parties request that an attorney be designated by the court to serve as a temporary judge on a case, the stipulation of the parties that a case may be tried by a temporary judge must be in writing and must state the name and office address of the member of the State Bar agreed on. The stipulation must be submitted for approval to the presiding judge or the judge designated by the presiding judge.

(Subd (a) amended effective July 1, 2006; previously amended and relettered effective July 1, 1993; previously amended effective January 1, 2001, and July 1, 2001.)

(b) Order, oath, and certification

The order designating the temporary judge must be signed by the presiding judge or the presiding judge's designee and refer to the stipulation. The stipulation and order must then be filed. The temporary judge must take and subscribe the oath of office and certify that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and the California Rules of Court.

(Subd (b) amended effective July 1, 2006; previously amended and relettered effective July 1, 1993; previously amended effective July 1, 2001.)

(c) When the temporary judge may proceed

The temporary judge may proceed with the hearing, trial, and determination of the cause after the stipulation, order, oath, and certification have been filed.

(Subd (c) amended and relettered effective July 1, 2006; formerly adopted as subd (b).)

(d) Disclosure to the parties

In addition to any other disclosure required by law, no later than five days after designation as a temporary judge or, if the temporary judge is not aware of his or her designation or of a matter subject to disclosure at that time, as soon as practicable thereafter, a temporary judge must disclose to the parties any matter subject to disclosure under the Code of Judicial Ethics.

(Subd (d) amended effective July 1, 2006; adopted as subd (c) effective July 1, 2001; previously amended and relettered effective July 1, 2006.)

(e) Disqualification

In addition to any other disqualification required by law, a temporary judge requested by the parties and designated by the court under this rule must disqualify himself or herself as provided under the Code of Judicial Ethics.

(Subd (e) amended and relettered effective July 1, 2006; adopted as subd (c) effective July 1, 1993; previously amended and relettered as subd (d) effective July 1, 2001.)

(f) Motion to withdraw stipulation

A motion to withdraw a stipulation for the appointment of a temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation, and must be heard by the presiding judge or a judge designated by the presiding judge. A declaration that a ruling is based on error of fact or law does not establish good cause for withdrawing a stipulation. Notice of the motion must be served and filed, and the moving party must mail or deliver a copy to the temporary judge. If the motion to withdraw the stipulation is based on grounds for the disqualification of the temporary judge first learned or arising after the temporary judge has made one or more rulings, but before the temporary judge has completed judicial action in the proceeding, the provisions of rule 2.816(e)(4) apply. If a motion to withdraw a stipulation is granted, the presiding judge must assign the case for hearing or trial as promptly as possible.

(Subd (f) amended effective January 1, 2007; adopted as subd (f) effective July 1, 1993; previously amended and relettered as subd (g) effective July 1, 2001, and as subd (f) effective July 1, 2006.)

Rule 2.831 amended and renumbered effective January 1, 2007; adopted as rule 244 effective January 1, 1999; previously amended effective April 1, 1962, July 1, 1981, July 1, 1987, July 1, 1993, July 1, 1995, January 1, 2001, and July 1, 2001; previously amended and renumbered as rule 243.31 effective July 1, 2006.

Rule 2.832. Compensation

A temporary judge selected by the parties may not be compensated by the parties unless the parties agree in writing on a rate of compensation that they will pay.

Rule 2.832 renumbered effective January 1, 2007; adopted as rule 243.32 effective July 1, 2006.

Rule 2.833. Notices, use of court facilities, and order for hearing site

(a) Posting of notice regarding proceeding before privately compensated judge

For all matters pending before privately compensated temporary judges, the clerk must post a notice in the courthouse indicating the case name and number as well as the telephone number of a person to contact to arrange for attendance at any proceeding that would be open to the public if held in a courthouse.

(b) Use of court facilities, court personnel, and summoned jurors

A party who has elected to use the services of a privately compensated judge is deemed to have elected to proceed outside the courtroom. Court facilities, court personnel, and summoned jurors may not be used in proceedings pending before a privately compensated judge except on a finding by the presiding judge that their use would further the interests of justice.

(c) Order the appropriate hearing site

The presiding judge, on request of any person or on the judge's own motion, may order that a case before a privately compensated temporary judge must be heard at a site easily accessible to the public and appropriate for seating those who have made known their plan to attend hearings. The request must be made by letter with reasons stated and must be accompanied by a declaration that a copy of the request was mailed to each party, to the temporary judge, and to the clerk for placement in the file. The order may require that notice of trial or of other proceedings be given to the requesting person directly. The granting of an order for an accessible and appropriate hearing site is not a ground for withdrawal of a stipulation.

Rule 2.833 renumbered effective January 1, 2007; adopted as rule 243.33 effective July 1, 2006.

Rule 2.834. Motions or applications to be heard by the court

(a) Motion or application to seal records

A motion or application to seal records in a cause before a privately compensated temporary judge must be filed with the court and must be served on all parties, the temporary judge, and any person or organization that has made known their intention to attend the hearing. The motion or application must be heard by the trial court judge to whom the case is assigned or, if the case has not been assigned, by the presiding judge. Rules 2.550–2.551 on sealed records apply to motions or applications filed under this rule.

(Subd (a) amended effective January 1, 2007.)

(b) Motion for leave to file complaint for intervention

A motion for leave to file a complaint for intervention in a cause before a privately compensated temporary judge must be filed with the court and served on all parties and the temporary judge. The motion must be heard by the trial court judge to whom the case is assigned or, if the case has not been assigned, by the presiding judge. If intervention is allowed, the case must be returned to the trial court docket unless all parties stipulate in the manner prescribed in rule 2.831(a) to proceed before the temporary judge.

(Subd (b) amended effective January 1, 2007.)

Rule 2.834 amended and renumbered effective January 1, 2007; adopted as rule 243.34 effective July 1, 2006.

Chapter 3. Referees [Reserved]

Chapter 4. Court Interpreters

Rule 2.890. Professional conduct for interpreters

(a) Representation of qualifications

An interpreter must accurately and completely represent his or her certifications, training, and relevant experience.

(Subd (a) amended effective January 1, 2007.)

(b) Complete and accurate interpretation

An interpreter must use his or her best skills and judgment to interpret accurately without embellishing, omitting, or editing. When interpreting for a party, the interpreter must interpret everything that is said during the entire proceedings.

When interpreting for a witness, the interpreter must interpret everything that is said during the witness's testimony.

Subd (b) amended effective January 1, 2007.)

(c) Impartiality and avoidance of conflicts of interest

(1) *Impartiality*

An interpreter must be impartial and unbiased and must refrain from conduct that may give an appearance of bias.

(2) *Disclosure of conflicts*

An interpreter must disclose to the judge and to all parties any actual or apparent conflict of interest. Any condition that interferes with the objectivity of an interpreter is a conflict of interest. A conflict may exist if the interpreter is acquainted with or related to any witness or party to the action or if the interpreter has an interest in the outcome of the case.

(3) *Conduct*

An interpreter must not engage in conduct creating the appearance of bias, prejudice, or partiality.

(4) *Statements*

An interpreter must not make statements to any person about the merits of the case until the litigation has concluded.

(Subd (c) amended effective January 1, 2007.)

(d) Confidentiality of privileged communications

An interpreter must not disclose privileged communications between counsel and client to any person.

(Subd (d) amended effective January 1, 2007.)

(e) Giving legal advice

An interpreter must not give legal advice to parties and witnesses, nor recommend specific attorneys or law firms.

(Subd (e) amended effective January 1, 2007.)

(f) Impartial professional relationships

An interpreter must maintain an impartial, professional relationship with all court officers, attorneys, jurors, parties, and witnesses.

(Subd (f) amended effective January 1, 2007.)

(g) Continuing education and duty to the profession

An interpreter must, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts. An interpreter should seek to elevate the standards of performance of the interpreting profession.

(Subd (g) amended effective January 1, 2007.)

(h) Assessing and reporting impediments to performance

An interpreter must assess at all times his or her ability to perform interpreting services. If an interpreter has any reservation about his or her ability to satisfy an assignment competently, the interpreter must immediately disclose that reservation to the court or other appropriate authority.

(Subd (h) amended effective January 1, 2007.)

(i) Duty to report ethical violations

An interpreter must report to the court or other appropriate authority any effort to impede the interpreter's compliance with the law, this rule, or any other official policy governing court interpreting and legal translating.

(Subd (i) amended effective January 1, 2007.)

Rule 2.890 amended and renumbered effective January 1, 2007; adopted as rule 984.4 effective January 1, 1999.

Rule 2.891. Periodic review of court interpreter skills and professional conduct

Each trial court must establish a procedure for biennial, or more frequent, review of the performance and skills of each court interpreter certified under Government Code section 68560 et seq. The court may designate a review panel, which must include at least one person qualified in the interpreter's language. The review procedure may include

interviews, observations of courtroom performance, rating forms, and other evaluation techniques.

Rule 2.891 amended and renumbered effective January 1, 2007; adopted as rule 984 effective July 1, 1979; previously amended effective January 1, 1996.

Rule 2.892. Guidelines for approval of certification programs for interpreters for deaf and hard-of-hearing persons

Each organization, agency, or educational institution that administers tests for certification of court interpreters for deaf and hard-of-hearing persons under Evidence Code section 754 must comply with the guidelines adopted by the Judicial Council effective February 21, 1992, and any subsequent revisions, and must hold a valid, current approval by the Judicial Council to administer the tests as a certifying organization. The guidelines are stated in the *Judicial Council Guidelines for Approval of Certification Programs for Interpreters for Deaf and Hard-of-Hearing Persons,* published by the Administrative Office of the Courts.

Rule 2.892 amended and renumbered effective January 1, 2007; adopted as rule 984.1 effective January 1, 1994.

Rule 2.893. Appointment of noncertified interpreters in criminal cases and juvenile delinquency proceedings

(a) Application

This rule applies to trial court proceedings in criminal cases and juvenile delinquency proceedings under Welfare and Institutions Code section 602 et seq. in which the court determines that an interpreter is required.

(Subd (a) amended effective January 1, 2007.)

(b) Appointment of noncertified interpreters

An interpreter who is not certified by the Judicial Council to interpret a language designated by the Judicial Council under Government Code section 68560 et seq. may be appointed under Government Code section 68561(c) in a proceeding if:

(1) *Noncertified interpreter provisionally qualified*

(A) The presiding judge of the court, or other judicial officer designated by the presiding judge:

(i) Finds the noncertified interpreter to be provisionally qualified following the *Procedures and Guidelines to Appoint a Noncertified Interpreter in Criminal and Juvenile Delinquency Proceedings (Designated Languages)* (form IN-100); and

(ii) Signs an order allowing the interpreter to be considered for appointment on *Qualifications of a Noncertified Interpreter* (form IN-110); and

(B) The judge in the proceeding finds on the record that:

(i) Good cause exists to appoint the noncertified interpreter; and

(ii) The interpreter is qualified to interpret the proceeding, following procedures adopted by the Judicial Council (see forms IN-100, IN-110, and IN-120).

(C) Each order of the presiding judge under (b)(1) finding a noncertified interpreter to be provisionally qualified and allowing the interpreter to be considered for appointment in a proceeding is for a six-month period.

(2) *Noncertified interpreter not provisionally qualified*

(A) To prevent burdensome delay or in other unusual circumstances, at the request of the defendant, or of the minor in a juvenile delinquency proceeding, the judge in the proceeding may appoint a noncertified interpreter who is not provisionally qualified under (b)(1) to interpret a brief, routine matter provided the judge, on the record:

(i) Indicates that the defendant or minor has waived the appointment of a certified interpreter and the appointment of an interpreter found provisionally qualified by the presiding judge;

(ii) Finds that good cause exists to appoint an interpreter who is neither certified nor provisionally qualified; and

(iii) Finds that the interpreter is qualified to interpret that proceeding.

(B) The findings and appointment under (b)(2)(A) made by the judge in the proceeding are effective only in that proceeding. The appointment must not be extended to subsequent proceedings without an additional waiver, findings, and appointment.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2007.)

(c) Limit on appointment of noncertified interpreters

(1) A noncertified interpreter allowed to be appointed under (b) may not interpret in the trial courts for more than any four 6-month periods, except that:

(A) In counties with a population greater than 80,000, a noncertified interpreter of Spanish may be allowed to interpret for no more than any two 6-month periods.

(B) A noncertified interpreter may be allowed to interpret beyond four 6-month periods, or two 6-month periods for an interpreter of Spanish under (A), if the judge in the proceeding makes a specific finding on the record in each case in which the interpreter is sworn that good cause exists to appoint the interpreter notwithstanding that he or she has failed to achieve Judicial Council certification.

(2) Except as provided in (3), each six-month period under (1) begins on the date a presiding judge signs an order under (b)(1)(A)(ii) allowing the noncertified interpreter to be considered for appointment.

(3) If an interpreter is provisionally qualified under (b)(1) in more than one court at the same time, each six-month period runs concurrently for purposes of determining the maximum periods allowed in this subdivision.

(Subd (c) amended effective January 1, 2007.)

(d) Waiver of certified interpreter or objection to noncertified interpreter

(1) If after a diligent search a certified interpreter is not available in a criminal case or in a juvenile delinquency proceeding, the judge in the proceeding that:

(A) The proposed interpreter is not certified;

(B) The court has found good cause to appoint a noncertified interpreter; and

(C) The court has found the proposed interpreter to be qualified to interpret in the proceeding.

(2) If the defendant or minor objects to the appointment of the proposed interpreter or waives the appointment of a certified interpreter, the objection or waiver must be on the record.

(Subd (d) amended effective January 1, 2007.)

(e) Court record

The minute order or docket must record the information in (1) or (2) below for each proceeding requiring the appointment of an interpreter:

(1) *Certified interpreters*

For each certified interpreter, the following information must be recorded:

(A) The name of the interpreter;

(B) The language to be interpreted;

(C) The fact that the interpreter is certified to interpret in the language to be interpreted; and

(D) Whether the interpreter was administered the interpreter's oath or has an oath on file with the court (only certified interpreters may have an oath on file).

(2) *Noncertified interpreters*

For each noncertified interpreter, the following information must be recorded:

(A) The name of the interpreter;

(B) The language to be interpreted;

(C) The fact that the interpreter was administered the interpreter's oath;

(D) The fact that the interpreter is not certified to interpret in the language to be interpreted;

(E) Whether a *Certification of Unavailability of Certified Interpreters* (form IN-120) for the language to be interpreted is on file for this date with the court administrator;

(F) The court's finding that good cause exists for the court to appoint a noncertified interpreter;

(G) The court's finding that the interpreter is qualified to interpret in the proceeding;

(H) If applicable, the court's finding under (c)(1)(B) that good cause exists for the court to appoint a noncertified interpreter beyond the time allowed in (c); and

If applicable, the objection or waiver of the defendant or minor under (d).

(Subd (e) amended effective January 1, 2007.)

Rule 2.893 amended effective January 1, 2007; adopted as rule 984.2 effective January 1, 1996; previously amended and renumbered effective January 1, 2007.

Rule 2.894. Reports on appointments of certified and registered interpreters and noncertified and nonregistered interpreters

Each superior court must report to the Judicial Council on:

(1) The appointment of certified and registered interpreters under Government Code section 71802, as required by the Administrative Office of the Courts; and

(2) The appointment of noncertified interpreters of languages designated under Government Code section 68562(a), and registered and nonregistered interpreters of nondesignated languages.

Rule 2.894 amended and renumbered effective January 1, 2007; adopted as rule 984.3 effective January 1, 1996; previously amended effective March 1, 2003.

Division 7. Proceedings

Chapter 1. General Provisions

Rule 2.900. Submission of a cause in a trial court

Rule 2.900. Submission of a cause in a trial court

(a) Submission

A cause is deemed submitted in a trial court when either of the following first occurs:

(1) The date the court orders the matter submitted; or

(2) The date the final paper is required to be filed or the date argument is heard, whichever is later.

(Subd (a) amended effective January 1, 2007.)

(b) Vacating submission

The court may vacate submission only by issuing an order served on the parties stating reasons constituting good cause and providing for resubmission.

(c) Pendency of a submitted cause

A submitted cause is pending and undetermined unless the court has announced its tentative decision or the cause is terminated. The time required to finalize a tentative decision is not time in which the cause is pending and undetermined. For purposes of this rule only, a motion that has the effect of vacating, reconsidering, or rehearing the cause will be considered a separate and new cause and will be deemed submitted as provided in (a).

(Subd (c) amended effective January 1, 2007.)

Rule 2.900 amended and renumbered effective January 1, 2007; adopted as rule 825 effective January 1, 1989.

Chapter 2. Records of Proceedings

Rule 2.950. Sequential list of reporters

During any reported court proceeding, the clerk must keep a sequential list of all reporters working on the case, indicating the date the reporter worked and the reporter's name, business address, and Certified Shorthand Reporter license number. If more than one reporter reports a case during one day, the information pertaining to each reporter must be listed with the first reporter designated "A," the second designated "B," etc. If

reporter "A" returns during the same day, that reporter will be designated as both reporter "A" and reporter "C" on the list. The list of reporters may be kept in an electronic database maintained by the clerk; however, a hard copy must be available to members of the public within one working day of a request for the list of reporters.

Rule 2.950 amended and renumbered effective January 1, 2007; adopted as rule 980.4 effective July 1, 1991.

Rule 2.952. Electronic recording as official record of proceedings

(a) Application

This rule applies when a court has ordered proceedings to be electronically recorded on a device of a type approved by the Judicial Council or conforming to specifications adopted by the Judicial Council.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1990.)

(b) Definitions

As used in this rule, the following definitions apply:

(1) "Reel" means an individual reel or cassette of magnetic recording tape or a comparable unit of the medium on which an electronic recording is made.

(2) "Monitor" means any person designated by the court to operate electronic recording equipment and to make appropriate notations to identify the proceedings recorded on each reel, including the date and time of the recording. The trial judge, a courtroom clerk, or a bailiff may be the monitor, but when recording is of sound only, a separate monitor without other substantial duties is recommended.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1990.)

(c) Reel numbers

Each reel must be distinctively marked with the date recorded, the department number of the court, if any, and, if possible, a serial number.

(Subd (c) amended effective January 1, 2007; previously amended effective January 1, 1990.)

(d) Certificate of monitor

As soon as practicable after the close of each day's court proceedings, the monitor must execute a certificate for each reel recorded during the day, stating:

(1) That the person executing the certificate was designated by the court as monitor;

(2) The number or other identification assigned to the reel;

(3) The date of the proceedings recorded on that reel;

(4) The titles and numbers of actions and proceedings, or portions thereof, recorded on the reel, and the general nature of the proceedings; and

(5) That the recording equipment was functioning normally, and that all of the proceedings in open court between designated times of day were recorded, except for such matters as were expressly directed to be "off the record" or as otherwise specified.

(Subd (d) amended effective January 1, 2007; previously amended effective January 1, 1990.)

(e) Two or more monitors

If two or more persons acted as monitors during the recording of a single reel, each monitor must execute a certificate as to the portion of the reel that he or she monitored. The certificate of a person other than a judge, clerk, or deputy clerk of the court must be in the form of an affidavit or declaration under penalty of perjury.

(Subd (e) lettered effective January 1, 2007; adopted as part of subd (d) effective January 1, 1976.)

(f) Storage

The monitor's certificate, the recorded reel, and the monitor's notes must be retained and safely stored by the clerk in a manner that will permit their convenient retrieval and use.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective January 1, 1976.)

(g) Transcripts

(1) Written transcripts of electronic recordings may be made by or under the direction of the clerk or a person designated by the court. The person making the transcript must execute a declaration under penalty of perjury that:

(A) Identifies the reel or reels transcribed, or the portions thereof, by reference to the numbers assigned thereto and, where only portions of a reel are transcribed, by reference to index numbers or other means of identifying the portion transcribed; and

(B) States that the transcript is a full, true, and correct transcript of the identified reel or reels or the designated portions thereof.

(2) The transcript must conform, as nearly as possible, to the requirements for a reporter's transcript as provided for in these rules.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f) effective January 1, 1976.)

(h) Use of transcripts

A transcript prepared and certified under (g), and accompanied by a certified copy of the monitor's certificate pertaining to each reel transcribed, is prima facie a true and complete record of the oral proceedings it purports to cover, and satisfies any requirement in the California Rules of Court or in any statute for a reporter's transcript of oral proceedings.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (g) effective January 1, 1976.)

(i) Original reels

A reviewing court may order the transmittal to it of the original reels containing electronic recordings of proceedings being reviewed by it, or electronic copies of them.

(Subd (i) relettered effective January 1, 2007; adopted as subd (h) effective January 1, 1976; previously amended effective January 1, 1990.

(j) Record on appeal

(1) *Stipulation and approval of record without transcription*

On stipulation of the parties approved by the reviewing court, the original reels or electronic copies of them may be transmitted as the record of oral proceedings without being transcribed, in which case the reels or copies satisfy the requirements in the California Rules of Court or in any statute for a reporter's transcript.

(2) *Request for preparation of transcript*

In the absence of a stipulation and approval under (1), the appellant must, within 10 days after filing a notice of appeal in a civil case, serve and file with the clerk directions indicating the portions of the oral proceedings to be transcribed and must, at the same time, deposit with the clerk the approximate cost computed as specified in rule 8.130. Other steps necessary to complete preparation of the record on appeal must be taken following, as nearly as possible, the procedures in rules 8.120 and 8.130.

(3) *Preparation of transcript*

On receiving directions to have a transcript prepared, the clerk may have the material transcribed by a court employee, but should ordinarily send the reels in question to a professional recording service that has been certified by the federal court system or the Administrative Office of the Courts or verified by the clerk to be skilled in producing transcripts.

(Subd (j) amended and relettered effective January 1, 2007; adopted as subd (i) effective January 1, 1990; previously amended effective January 1, 1993.)

Rule 2.952 amended and renumbered effective January 1, 2007; adopted as rule 980.5 effective January 1, 1976; previously amended effective January 1, 1990, and January 1, 1993.

Rule 2.954. Specifications for electronic recording equipment

(a) Specifications mandated

Electronic recording equipment used in making the official verbatim record of oral courtroom proceedings must conform to the specifications in this rule.

(Subd (a) amended effective January 1, 2007.)

(b) Sound recording only

The following specifications for electronic recording devices and appurtenant equipment apply when only sound is to be recorded:

(1) *Mandatory specifications*

(A) The device must be capable of simultaneously recording at least four separate channels or "tracks," each of which has a separate playback

control so that any one channel separately or any combination of channels may be played back.

(B) The device must not have an operative erase head.

(C) The device must have a digital counter or comparable means of logging and locating the place on a reel where specific proceedings were recorded.

(D) Earphones must be provided for monitoring the recorded signal.

(E) The signal going to the earphones must come from a separate playback head, so that the monitor will hear what has actually been recorded on the tape.

(F) The device must be capable of recording at least two hours without interruption. This requirement may be satisfied by a device that automatically switches from one recording deck to another at the completion of a reel of tape of less than two hours in duration.

(G) A separate visual indicator of signal level must be provided for each recording channel.

(H) The appurtenant equipment must include at least four microphones, which should include one at the witness stand, one at the bench, and one at each counsel table. In the absence of unusual circumstances, all microphones must be directional (cardioid).

(I) A loudspeaker must be provided for courtroom playback.

(2) *Recommended features*

The following features are recommended, but not required:

(A) The recording level control should be automatic rather than manual.

(B) The device should be equipped to prevent recording over a previously recorded segment of tape.

(C) The device should give a warning signal at the end of a reel of tape.

(Subd (b) amended effective January 1, 2007.)

(c) Audio-and-video recording

The following specifications for electronic audio-video recording devices and appurtenant equipment apply when audio and video are to be recorded simultaneously.

(1) *Mandatory specifications*

The system must include:

(A) At least five charge-coupled-device color video cameras in fixed mounts, equipped with lenses appropriate to the courtroom. Cameras must conform to EIA standard, accept C-mount lenses, have 2000 lux sensitivity at f4.0 at 3200 degrees Kelvin so as to produce an adequate picture with 30 lux minimum illumination and an f1.4 lens, and be approximately 2.6" x 2.4" x 8.0."

(B) At least eight phase-coherent cardioid (directional) microphones, Crown PCC-160 or equivalent, appropriately placed.

(C) At least two VHS videotape recorders with hi-fi sound on video, specially modified to record 4 channels of audio (2 linear channels with Dolby noise reduction and 2 hi-fi sound on video channels), capable of recording up to 6 hours on T-120 cassettes, modified to prevent automatic rewind at end of tape, and wired for remote control. The two recorders must simultaneously record the same audio and video signals, as selected by the audio-video mixer.

(D) A computer-controlled audio-video mixer and switching system that:

(i) Automatically selects for the VCRs the signal from the video camera that is associated with the active microphone; and

(ii) Compares microphone active signal to ambient noise signal so that microphones are recorded only when a person is speaking, and so that only the microphone nearest a speaker is active, thus minimizing recording of ambient noise.

(E) A sound system that serves both as a sound reinforcement system while recording is in progress, and as a playback amplification system, integrated with other components to minimize feedback.

(F) A time-date generator that is active and records at all times the system is recording.

(G) A color monitor.

(H) Appropriate cables, distribution amplifiers, switches, and the like.

(I) The system must produce:

(i) A signal visible to the judge, the in-court clerk, and counsel indicating that the system is recording;

(ii) An audible signal at end-of-tape or if the tape jams while the controls are set to record; and

(iii) Blanking of the judge's bench monitor when the system is not actually recording.

(2) *Recommended features*

The system should normally include:

(A) A chambers camera and microphone or microphones that, when in use, will override any signals originating in the courtroom, and that will be inactivated when not in use.

(B) Two additional videocassette recorders that will produce tapes with the same video and audio as the main two, but may have fewer channels of sound, for the use of parties in cases recorded.

(Subd (c) amended effective January 1, 2007.)

(d) Substantial compliance

A sound or video and sound system that substantially conforms to these specifications is approved if the deviation does not significantly impair a major function of the system. Subdivision (c)(1)(D)(ii) of this rule describes a specification from which deviation is permissible, if the system produces adequate sound quality.

(Subd (d) amended effective January 1, 2007.)

(e) Previous equipment

The Administrative Director of the Courts is authorized to approve any electronic recording devices and equipment acquired before the adoption or amendment of this rule that has been found by the court to produce satisfactory recordings of proceedings.

(Subd (e) amended effective January 1, 2007.)

Rule 2.954 amended and renumbered effective January 1, 2007; adopted as rule 980.6 effective January 1, 1990.

Rule 2.956. Court reporting services in civil cases

(a) Statutory reference; application

This rule is adopted solely to effectuate the statutory mandate of Government Code sections 68086(a)–(b) and must be applied so as to give effect to these sections. It applies to trial courts.

(Subd (a) amended effective January 1, 2007; previously amended effective January 31, 1997.)

(b) Notice of availability; parties' request

(1) *Local policy to be adopted and posted*

Each trial court must adopt and post in the clerk's office a local policy enumerating the departments in which the services of official court reporters are normally available, and the departments in which the services of official court reporters are not normally available during regular court hours. If the services of official court reporters are normally available in a department only for certain types of matters, those matters must be identified in the policy.

(2) *Publication of policy*

The court must publish its policy in a newspaper if one is published in the county. Instead of publishing the policy, the court may:

(A) Send each party a copy of the policy at least 10 days before any hearing is held in a case; or

(B) Adopt the policy as a local rule.

(3) *Requests for official court reporter for civil trials and notices to parties*

Unless the court's policy states that all courtrooms normally have the services of official court reporters available for civil trials, the court must require that each party file a statement before the trial date indicating whether the party requests the presence of an official court reporter. If a party requests the presence of an official court reporter and it appears that none will be available, the clerk must notify the party of that fact as soon as possible before the trial. If the services of official court reporters are normally available in all courtrooms, the clerk must notify the parties to a civil trial as soon as possible if it appears that those services will not be available.

(4) *Notice of nonavailability of court reporter for nontrial matters*

If the services of an official court reporter will not be available during a hearing on law and motion or other nontrial matters in civil cases, that fact must be noted on the court's official calendar.

(Subd (b) amended effective January 1, 2007.)

(c) Party may procure reporter

If the services of an official court reporter are not available for a hearing or trial in a civil case, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter. It is that party's responsibility to pay the reporter's fee for attendance at the proceedings, but the expense may be recoverable as part of the costs, as provided by law.

(d) No additional charge if party arranges for reporter

If a party arranges and pays for the attendance of a certified shorthand reporter at a hearing in a civil case because of the unavailability of the services of an official court reporter, none of the parties may be charged the reporter's attendance fee provided for in Government Code sections 68086(a)(1) or (b)(1).

(Subd (d) amended effective January 1, 2007.)

(e) Definitions

As used in this rule and in Government Code section 68086:

(1) "Civil case" includes all matters other than criminal and juvenile matters.

(2) "Official reporter" and "official reporting services" both include an official court reporter or official reporter as those phrases are used in statutes, including Code of Civil Procedure sections 269 and 274c and Government Code section 69941; and include an official reporter pro tempore as the phrase is used in Government Code section 69945 and other statutes, whose fee for attending and reporting proceedings is paid for by the court or the county, and who attends court sessions as directed by the court, and who was not employed to report specific causes at the request of a party or parties. "Official reporter" and "official reporting services" do not include official reporters pro tempore employed by the court expressly to report only criminal, or criminal and juvenile, matters. "Official reporting services" include electronic recording equipment operated by the court to make the official verbatim record of proceedings where it is permitted.

(Subd (e) amended effective January 1, 2007.)

Rule 2.956 amended and renumbered effective January 1, 2007; adopted as rule 891 effective January 1, 1994; previously amended effective January 31, 1997.

Rule 2.958. Assessing fee for official reporter

The half-day fee to be charged under Government Code section 68086 for the services of an official reporter must be established by the trial court as follows: for a proceeding or portion of a proceeding in which a certified shorthand reporter is used, the fee is equal to the average salary and benefit costs of the reporter, plus indirect costs of up to 18 percent of salary and benefits. For purposes of this rule, the daily salary is determined by dividing the average annual salary of temporary and full-time reporters by 225 workdays.

Rule 2.958 amended and renumbered effective January 1, 2007; adopted as rule 892 effective January 1, 1994; previously amended effective January 31, 1997, August 17, 2003, January 1, 2004, and July 1, 2004.

Division 8. Trials

Chapter 1. Jury Service

Rule 2.1000. Jury service [Reserved]

Rule 2.100 adopted effective January 1, 2007.

Rule 2.1002. Length of juror service

(a) Purpose

This rule implements Government Code section 68550, which is intended to make jury service more convenient and alleviate the problem of potential jurors refusing to appear for jury duty by shortening the time a person would be required to serve to one day or one trial. The exemptions authorized by the rule are intended to be of limited scope and duration, and they must be applied with the goal of achieving full compliance throughout the state as soon as possible.

(Subd (a) amended effective January 1, 2007.)

(b) Definitions

As used in this rule:

(1) "Trial court system" means all the courts of a county.

(2) "One trial" means jury service provided by a citizen after being sworn as a trial juror.

(3) "One day" means the hours of one normal court working day (the hours a court is open to the public for business).

(4) "On call" means all same-day notice procedures used to inform prospective jurors of the time they are to report for jury service.

(5) "Telephone standby" means all previous-day notice procedures used to inform prospective jurors of their date to report for service.

(Subd (b) amended effective January 1, 2007.)

(c) One-day/one-trial

Each trial court system must implement a juror management program under which a person has fulfilled his or her jury service obligation when the person has:

(1) Served on one trial until discharged;

(2) Been assigned on one day to one or more trial departments for jury selection and served through the completion of jury selection or until excused by the jury commissioner;

(3) Attended court but was not assigned to a trial department for selection of a jury before the end of that day;

(4) Served one day on call; or

(5) Served no more than five court days on telephone standby.

(Subd (c) amended effective January 1, 2007.)

(d) Exemption

(1) *Good cause*

The Judicial Council may grant an exemption from the requirements of this rule for a specified period of time if the trial court system demonstrates good cause by establishing that:

(A) The cost of implementing a one-day/one-trial system is so high that the trial court system would be unable to provide essential services to the public if required to implement such a system; or

(B) The requirements of this rule cannot be met because of the size of the population in the county compared to the number of jury trials.

(2) *Application*

Any application for exemption from the requirements of this rule must be submitted to the Judicial Council no later than September 1, 1999. The application must demonstrate good cause for the exemption sought and must include either:

(A) A plan to fully comply with this rule by a specified date; or

(B) An alternative plan that would advance the purposes of this rule to the extent possible, given the conditions in the county.

(3) *Decision*

If the council finds good cause, it may grant an exemption for a limited period of time and on such conditions as it deems appropriate to further the purposes of this rule.

(Subd (d) amended effective January 1, 2007.)

Rule 2.1002 amended and renumbered effective January 1, 2007; adopted as rule 861 effective July 1, 1999.

Rule 2.1004. Scheduling accommodations for jurors

(a) Accommodations for all jurors

The jury commissioner should accommodate a prospective juror's schedule by granting a prospective juror's request for a one-time deferral of jury service. If the request for a deferral is made under penalty of perjury in writing or through the court's established electronic means, and in accordance with the court's local procedure, the jury commissioner should not require the prospective juror to appear at court to make the request in person.

(b) Scheduling accommodations for peace officers

If a prospective juror is a peace officer, as defined by Penal Code section 830.5, the jury commissioner must make scheduling accommodations on application of the peace officer stating the reason a scheduling accommodation is necessary. The jury commissioner must establish procedures for the form and timing of the application. If the request for special accommodations is made under penalty of perjury in writing or through the court's established electronic means, and in accordance with the court's local procedure, the jury commissioner must not require the prospective juror to appear at court to make the request in person.

(Subd (b) amended effective January 1, 2007.)

Rule 2.1004 amended and renumbered effective January 1, 2007; adopted as rule 858 effective January 1, 2005.

Rule 2.1006. Deferral of jury service

A mother who is breastfeeding a child may request that jury service be deferred for up to one year, and may renew that request as long as she is breastfeeding. If the request is made in writing, under penalty of perjury, the jury commissioner must grant it without requiring the prospective juror to appear at court.

Rule 2.1006 renumbered effective January 1, 2007; adopted as rule 859 effective July 1, 2001.

Rule 2.1008. Excuses from jury service

(a) Duty of citizenship

Jury service, unless excused by law, is a responsibility of citizenship. The court and its staff must employ all necessary and appropriate means to ensure that citizens fulfill this important civic responsibility.

(Subd (a) amended effective January 1, 2007.)

(b) Principles

The following principles govern the granting of excuses from jury service by the jury commissioner on grounds of undue hardship under Code of Civil Procedure section 204:

(1) No class or category of persons may be automatically excluded from jury duty except as provided by law.

(2) A statutory exemption from jury service must be granted only when the eligible person claims it.

(3) Deferring jury service is preferred to excusing a prospective juror for a temporary or marginal hardship.

(4) Inconvenience to a prospective juror or an employer is not an adequate reason to be excused from jury duty, although it may be considered a ground for deferral.

(Subd (b) amended effective January 1, 2007.)

(c) Requests to be excused from jury service

All requests to be excused from jury service that are granted for undue hardship must be put in writing by the prospective juror, reduced to writing, or placed on the court's record. The prospective juror must support the request with facts specifying the hardship and a statement why the circumstances constituting the undue hardship cannot be avoided by deferring the prospective juror's service.

(Subd (c) amended effective January 1, 2007.)

(d) Reasons for excusing a juror because of undue hardship

An excuse on the ground of undue hardship may be granted for any of the following reasons:

(1) The prospective juror has no reasonably available means of public or private transportation to the court.

(2) The prospective juror must travel an excessive distance. Unless otherwise established by statute or local rule, an excessive distance is reasonable travel time that exceeds one-and-one-half hours from the prospective juror's home to the court.

(3) The prospective juror will bear an extreme financial burden. In determining whether to excuse the prospective juror for this reason, consideration must be given to:

(A) The sources of the prospective juror's household income;

(B) The availability and extent of income reimbursement;

(C) The expected length of service; and

(D) Whether service can reasonably be expected to compromise the prospective juror's ability to support himself or herself or his or her dependents, or so disrupt the economic stability of any individual as to be against the interests of justice.

(4) The prospective juror will bear an undue risk of material injury to or destruction of the prospective juror's property or property entrusted to the prospective juror, and it is not feasible to make alternative arrangements to alleviate the risk. In determining whether to excuse the prospective juror for this reason, consideration must be given to:

(A) The nature of the property;

(B) The source and duration of the risk;

(C) The probability that the risk will be realized;

(D) The reason alternative arrangements to protect the property cannot be made; and

(E) Whether material injury to or destruction of the property will so disrupt the economic stability of any individual as to be against the interests of justice.

(5) The prospective juror has a physical or mental disability or impairment, not affecting that person's competence to act as a juror, that would expose the potential juror to undue risk of mental or physical harm. In any individual case, unless the person is aged 70 years or older, the prospective juror may be required to furnish verification or a method of verification of the disability or impairment, its probable duration, and the particular reasons for the person's inability to serve as a juror.

(6) The prospective juror's services are immediately needed for the protection of the public health and safety, and it is not feasible to make alternative arrangements to relieve the person of those responsibilities during the period of service as a juror without substantially reducing essential public services.

(7) The prospective juror has a personal obligation to provide actual and necessary care to another, including sick, aged, or infirm dependents, or a child who requires the prospective juror's personal care and attention, and no comparable substitute care is either available or practical without imposing an undue economic hardship on the prospective juror or person cared for. If the request to be excused is based on care provided to a sick, disabled, or infirm person, the prospective juror may be required to furnish verification or a method of verification that the person being cared for is in need of regular and personal care.

(Subd (d) amended effective January 1, 2007.)

(e) Excuse based on previous jury service

A prospective juror who has served on a grand or trial jury or was summoned and appeared for jury service in any state or federal court during the previous 12 months must be excused from service on request. The jury commissioner, in his or her discretion, may establish a longer period of repose.

(Subd (e) amended effective January 1, 2007.)

Rule 2.1008 amended and renumbered effective January 1, 2007; adopted as rule 860 effective July 1, 1997.

Rule 2.1010. Juror motion to set aside sanctions imposed by default

(a) Motion

A prospective juror against whom sanctions have been imposed by default under Code of Civil Procedure section 209 may move to set aside the default. The motion must be brought no later than 60 days after sanctions have been imposed.

(b) Contents of motion

A motion to set aside sanctions imposed by default must contain a short and concise statement of the reasons the prospective juror was not able to attend when summoned for jury duty and any supporting documentation.

(c) Judicial Council form may be used

A motion to set aside sanctions imposed by default may be made by completing and filing *Juror's Motion to Set Aside Sanctions and Order* (form MC-070).

(Subd (c) amended effective January 1, 2007.)

(d) Hearing

The court may decide the motion with or without a hearing.

(Subd (d) amended effective January 1, 2007.)

(e) Good cause required

If the motion demonstrates good cause, a court must set aside sanctions imposed against a prospective juror.

(f) Continuing obligation to serve

Nothing in this rule relieves a prospective juror of the obligation of jury service.

(g) Notice to juror

The court must provide a copy of this rule to the prospective juror against whom sanctions have been imposed.

(h) Sunset date

This rule is effective until January 1, 2010.

(Subd (h) amended effective January 1, 2007.)

Rule 2.1010 amended effective January 1, 2007; adopted as rule 862 effective January 1, 2005.

Chapter 2. Conduct of Trial

Rule 2.1030. Communications from or with jury

(a) Preservation of written jury communications

The trial judge must preserve and deliver to the clerk for inclusion in the record all written communications, formal or informal, received from the jury or from individual jurors or sent by the judge to the jury or individual jurors, from the time the jury is sworn until it is discharged.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective January 1, 1990.)

(b) Recording of oral jury communications

The trial judge must ensure that the reporter, or any electronic recording system used instead of a reporter, records all oral communications, formal or informal, received from the jury or from individual jurors or communicated by the judge to the jury or individual jurors, from the time the jury is sworn until it is discharged.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective January 1, 1990.)

Rule 2.1030 amended and renumbered effective January 1, 2007; adopted as rule 231 effective January 1, 1990.

Rule 2.1031. Juror note-taking

Jurors must be permitted to take written notes in all civil and criminal trials. At the beginning of a trial, a trial judge must inform jurors that they may take written notes during the trial. The court must provide materials suitable for this purpose.

Rule 2.1031 adopted effective January 1, 2007.

Comment

Several cautionary jury instructions address jurors' note-taking during trial and use of notes in deliberations. (See CACI Nos. 102, 5010 and CALCRIM Nos. 102, 202.)

Rule 2.1032. Juror notebooks in complex civil cases

A trial judge should encourage counsel in complex civil cases to include key documents, exhibits, and other appropriate materials in notebooks for use by jurors during trial to assist them in performing their duties.

Rule 2.1032 adopted effective January 1, 2007.

Comment

While this rule is intended to apply to complex civil cases, there may be other types of civil cases in which notebooks may be appropriate or useful. Resources, including guidelines for use and recommended notebook contents, are available in *Bench Handbook: Jury Management* (CJER, rev. 2006, p. 59).

Rule 2.1033. Juror questions

A trial judge should allow jurors to submit written questions directed to witnesses. An opportunity must be given to counsel to object to such questions out of the presence of the jury.

Rule 2.1033 adopted effective January 1, 2007.

Comment

See CACI No. 112 and CALCRIM No. 106. Resources, including a model admonition and a sample form for jurors to use to submit questions to the court, are available in *Bench Handbook: Jury Management* (CJER, rev. 2006, pp. 60–62).

Rule 2.1034. Statements to the jury panel

Prior to the examination of prospective jurors, the trial judge may, in his or her discretion, permit brief opening statements by counsel to the panel.

Rule 2.1034 adopted effective January 1, 2007.

Comment

This statement is not a substitute for opening statements. Its purpose is to place voir dire questions in context and to generate interest in the case so that prospective jurors will be less inclined to claim marginal hardships.

Rule 2.1035. Preinstruction

Immediately after the jury is sworn, the trial judge may, in his or her discretion, preinstruct the jury concerning the elements of the charges or claims, its duties, its conduct, the order of proceedings, the procedure for submitting written questions for witnesses as set forth in rule 2.1033 if questions are allowed, and the legal principles that will govern the proceeding.

Rule 2.1035 adopted effective January 1, 2007.

Rule 2.1036. Assisting the jury at impasse

(a) Determination

After a jury reports that it has reached an impasse in its deliberations, the trial judge may, in the presence of counsel, advise the jury of its duty to decide the case based on the evidence while keeping an open mind and talking about the evidence with each other. The judge should ask the jury if it has specific concerns which, if resolved, might assist the jury in reaching a verdict.

(b) Possible further action

If the trial judge determines that further action might assist the jury in reaching a verdict, the judge may:

(1) Give additional instructions;

(2) Clarify previous instructions;

(3) Permit attorneys to make additional closing arguments; or

(4) Employ any combination of these measures.

Rule 2.1036 adopted effective January 1, 2007.

Comment

See Judicial Council CACI No. 5013 and Judicial Council CALCRIM No. 3550.

Chapter 3. Testimony and Evidence

Rule 2.1040. Electronic recordings offered in evidence

(a) Transcript of electronic recording

Unless otherwise ordered by the trial judge, a party offering into evidence an electronic sound or sound-and-video recording must tender to the court and to opposing parties a typewritten transcript of the electronic recording. The transcript must be marked for identification. A duplicate of the transcript, as defined in Evidence Code section 260, must be filed by the clerk and must be part of the clerk's transcript in the event of an appeal. Any other recording transcript provided to the jury must also be marked for identification, and a duplicate must be filed by the clerk and made part of the clerk's transcript in the event of an appeal.

(Subd (a) amended and lettered effective January 1, 2003.)

(b) Transcription by court reporter not required

Unless otherwise ordered by the trial judge, the court reporter need not take down or transcribe an electronic recording that is admitted into evidence.

(Subd (b) amended and lettered effective January 1, 2003.)

Rule 2.1040 amended and renumbered effective January 1, 2007; adopted as rule 203.5 effective July 1, 1988; previously amended effective January 1, 1997; amended and renumbered as rule 243.9 effective January 1, 2003.

Chapter 4. Jury Instructions

Rule 2.1050. Judicial Council jury instructions

(a) Purpose

The California jury instructions approved by the Judicial Council are the official instructions for use in the state of California. The goal of these instructions is to improve the quality of jury decision making by providing standardized instructions that accurately state the law in a way that is understandable to the average juror.

(b) Accuracy

The Judicial Council endorses these instructions for use and makes every effort to ensure that they accurately state existing law. The articulation and interpretation of California law, however, remains within the purview of the Legislature and the courts of review.

(c) Public access

The Administrative Office of the Courts must provide copies and updates of the approved jury instructions to the public on the California Courts Web site. The Administrative Office of the Courts may contract with an official publisher to publish the instructions in both paper and electronic formats. The Judicial Council intends that the instructions be freely available for use and reproduction by parties, attorneys, and the public, except as limited by this subdivision. The Administrative Office of the Courts may take steps necessary to ensure that publication of the instructions by commercial publishers does not occur without its permission, including, without limitation, ensuring that commercial publishers accurately publish the Judicial Council's instructions, accurately credit the Judicial Council as the source of the instructions, and do not claim copyright of the instructions. The Administrative Office of the Courts may require commercial publishers to pay fees or royalties in exchange for permission to publish the instructions. As used in this rule, "commercial publishers" means entities that publish works for sale, whether for profit or otherwise.

(Subd (c) amended effective January 1, 2007; previously amended effective August 26, 2005.)

(d) Updating and amendments

The Judicial Council instructions will be regularly updated and maintained through its advisory committees on jury instructions. Amendments to these instructions will be circulated for public comment before publication. Trial judges and attorneys may submit for the advisory committees' consideration suggestions for improving or modifying these instructions or creating new instructions, with an explanation of why the change is proposed. Suggestions should be sent to the Administrative Office of the Courts, Office of the General Counsel.

(e) Use of instructions

Use of the Judicial Council instructions is strongly encouraged. If the latest edition of the jury instructions approved by the Judicial Council contains an instruction applicable to a case and the trial judge determines that the jury should be instructed on the subject, it is recommended that the judge use the Judicial Council instruction unless he or she finds that a different instruction would more accurately state the law and be understood by jurors. Whenever the latest edition of the Judicial Council jury instructions does not contain an instruction on a subject on which the trial judge determines that the jury should be instructed, or when a Judicial Council instruction cannot be modified to submit the issue properly, the instruction given on that subject should be accurate, brief, understandable, impartial, and free from argument.

(Subd (e) amended effective August 26, 2005.)

Rule 2.1050 amended and renumbered effective January 1, 2007; adopted as rule 855 effective September 1, 2003; previously amended effective August 26, 2005.

Rule 2.1055. Proposed jury instructions

(a) Application

(1) This rule applies to proposed jury instructions that a party submits to the court, including:

(A) "Approved jury instructions," meaning jury instructions approved by the Judicial Council of California; and

(B) "Special jury instructions," meaning instructions from other sources, those specially prepared by the party, or approved instructions that have been substantially modified by the party.

(2) This rule does not apply to the form or format of the instructions presented to the jury, which is a matter left to the discretion of the court.

(Subd (a) amended effective August 26, 2005; previously amended effective January 1, 2003, and January 1, 2004.)

(b) Form and format of proposed instructions

(1) All proposed instructions must be submitted to the court in the form and format prescribed for papers in the rules in division 2 of this title.

(2) Each set of proposed jury instructions must have a cover page, containing the caption of the case and stating the name of the party proposing the instructions, and an index listing all the proposed instructions.

(3) In the index, approved jury instructions must be identified by their reference numbers and special jury instructions must be numbered consecutively. The index must contain a checklist that the court may use to indicate whether the instruction was:

(A) Given as proposed;

(B) Given as modified;

(C) Refused; or

(D) Withdrawn.

(4) Each set of proposed jury instructions must be bound loosely.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 1988, January 1, 2003, and January 1, 2004.)

(c) Format of each proposed instruction

Each proposed instruction must:

(1) Be on a separate page or pages;

(2) Include the instruction number and title of the instruction at the top of the first page of the instruction; and

(3) Be prepared without any blank lines or unused bracketed portions, so that it can be read directly to the jury.

(Subd (c) amended effective January 1, 2004; previously amended effective July 1, 1988, April 1, 1962, and January 1, 2003.)

(d) Citation of authorities

For each special instruction, a citation of authorities that support the instruction must be included at the bottom of the page. No citation is required for approved instructions.

(Subd (d) adopted effective January 1, 2004.)

(e) Form and format are exclusive

No local court form or rule for the filing or submission of proposed jury instructions may require that the instructions be submitted in any manner other than as prescribed by this rule.

(Subd (e) adopted effective January 1, 2004.)

Rule 2.1055 amended and renumbered effective January 1, 2007; adopted as rule 229 effective January 1, 1949; previously amended effective April 1, 1962, July 1, 1988, January 1, 2003, January 1, 2004, and August 26, 2005.

Advisory Committee Comment

This rule does not preclude a judge from requiring the parties in an individual case to transmit the jury instructions to the court electronically.

Rule 2.1058. Use of gender-neutral language in jury instructions

All instructions submitted to the jury must be written in gender-neutral language. If standard jury instructions (*CALCRIM* and *CACI*) are to be submitted to the jury, the court or, at the court's request, counsel must recast the instructions as necessary to ensure that gender-neutral language is used in each instruction.

Rule 2.1058 amended and renumbered effective January 1, 2007; adopted as rule 989 effective January 1, 1991.

Division 9. Judgments

Rule 2.1100. Notice when statute or regulation declared unconstitutional

Rule 2.1100. Notice when statute or regulation declared unconstitutional

Within 10 days after a court has entered judgment in a contested action or special proceeding in which the court has declared unconstitutional a state statute or regulation, the prevailing party, or as otherwise ordered by the court, must mail a copy of the judgment and a notice of entry of judgment to the Attorney General and file a proof of service with the court.

Rule 2.1100 amended and renumbered effective January 1, 2007; adopted as rule 826 effective January 1, 1999.